

2021

SESSION LAWS

OF THE

STATE OF WASHINGTON

2021 REGULAR SESSION
SIXTY-SEVENTH LEGISLATURE
Convened January 11, 2021. Adjourned April 25, 2021.



Published at Olympia by the Statute Law Committee under
Chapter 44.20 RCW.

Kathleen Buchli
Code Reviser

<http://www.leg.wa.gov/codereviser>

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 2021 regular session is July 25, 2021.
- (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 2021 laws may be found at the back of the final volume.

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
2021 SESSION			
1		Salaries—State elected officials	1
2	ESSB 5061	Unemployment insurance	3
3	ESHB 1368	COVID-19—Federal funding	41
4	SHB 1095	Emergency grants—Tax exemption	53
5	HB 1367	Medicaid appropriations revisions—COVID-19	64
6	ESSB 5272	Liquor and cannabis board annual licensing fees— Temporary waiver	66
7	EHB 1121	High school graduation requirements—Emergency waivers . . .	97
8	EHB 1131	Private schools—Instructional hours and days emergency waiver	101
9	SHB 1151	Public assistance	103
10	ESHB 1078	Voter eligibility—Persons convicted of a felony offense . . .	105
11	SHB 1114	Urban heat island effects—Utility mitigation	110
12	SB 5021	Public employee retirement benefits—Effect of expenditure reductions	116
13	SSB 5055	Law enforcement disciplinary grievance arbitration	152
14	SB 5058	Natural resources accounts—Technical changes	160
15	SB 5077	Mortgage loan originators—Work from home	161
16	SSB 5179	Blood donation—Eligibility	165
17	SB 5198	Ambulances in rural areas—Driver training	166
18	SB 5322	School employees' benefits board and public employees' benefits board—Dual enrollment	166
19	SB 5338	Fire protection districts—Education	167
20	ESHB 1372	National statuary hall—Billy Frank Jr.	168
21	SHB 1007	Social worker licenses—Distance supervision	171
22	SHB 1037	Insurance adjusters—Various provisions	174
23	HB 1042	Uniform child custody jurisdiction and enforcement act— International application—Death penalty	177
24	HB 1055	Timber purchase reporting—Expiration date	178
25	SHB 1064	Internet service—Residential property seller's disclosure statement	180
26	ESHB 1068	Election security information—Public records act exemption.	188
27	ESHB 1070	Affordable housing local tax revenue—Allowed uses	190
28	E2SHB 1083	Closed and converted manufactured/mobile home parks— Relocation assistance	195
29	SHB 1085	Students with seizure disorders	198
30	EHB 1090	Private, for-profit detention facilities	202
31	HB 1104	Mortgage lending fraud prosecution account—Extension . . .	204
32	HB 1115	State agency financial transactions—Cost recovery	205
33	SHB 1145	Paper carryout bags—Nonwood renewable fiber	206
34	HB 1159	Fire protection district commissioners—Number	210
35	SHB 1171	Child support income withholding—Federal requirements . . .	210
36	EHB 1199	Department of natural resources leases—Compensation for termination	244
37	SHB 1206	Temporary workers—Safety	246
38	ESHB 1214	Public school safety and security services	248

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
39	HB	1237 Family resource centers—Definition	255
40	E2SHB	1274 Cloud computing—State agencies	261
41	SHB	1294 Misdemeanor supervision services—Interlocal agreements.	264
42	SHB	1309 Property tax levies—Certification date	268
43	HB	1315 Domestic violence workplace resources—Task force	273
44	HB	1378 Medical assistants—Telemedicine supervision	275
45	HB	1393 Photovoltaic module stewardship and takeback program— Implementation dates	277
46	HB	1437 Vessel crewmember licenses—Various provisions	282
47	EHB	1471 Community preservation and development authorities— Various provisions	283
48	E2SHB	1480 Liquor licensee privileges—Extension.	285
49	HB	1491 Department of natural resources right-of-way certificates— Federal government	292
50	HB	1525 Enforcement of judgments—Garnishment protections	293
51	SSB	5267 Property flipping—Electrical work	298
52	HB	1001 Law enforcement professional development outreach grant program.	302
53	HB	1009 Student health plans—Abortion	303
54	HB	1023 Capital project redesign—Exceptions	304
55	HB	1031 Certificates of birth resulting in stillbirth.	309
56	2SHB	1061 Foster youth with developmental disabilities—Discharge.	313
57	HB	1063 Behavioral health professional trainees and associates— Credential renewal limits	314
58	HB	1072 Civil legal aid funds—Individuals in United States without legal authority.	316
59	HB	1087 Employee family and medical leave rights—Continuity.	319
60	HB	1096 Washington state health insurance pool—Nonmedicare plans—Expiration.	321
61	2SHB	1148 Acute care hospitals—Licensing and enforcement	324
62	SHB	1166 Homeless and foster care college students pilot program— Expansion	328
63	HB	1167 Thurston county superior court—Additional judge	331
64	SHB	1170 Manufacturing—Workforce.	331
65	EHB	1192 Technical corrections	334
66	SHB	1209 Nonmedical assistance—Civil immunity.	422
67	SHB	1221 Homelessness—Definitions	423
68	SHB	1225 Department of health—School-based health center program office.	437
69	SHB	1276 Emergency services supervisory organizations	438
70	SHB	1301 Regional transit authority fare enforcement—Options	441
71	SHB	1302 College in the high school programs	442
72	SHB	1331 Impact fees—Early learning facilities	453
73	ESHB	1332 Property tax deferral—COVID-19 pandemic	455
74	EHB	1342 Reduced-price school lunch—Copay elimination	461
75	E2SHB	1382 Habitat restoration projects—Environmental permitting— Pilot.	464
76	SHB	1424 Retail pet stores—Sale of dogs and cats.	467
77	ESHB	1426 Teachers and school administrators—Continuing	

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
		education—Equity-based practices	468
78	SHB	1445 Practice of pharmacy—Compounding definition.	469
79	SHB	1446 Electric utilities—Energy conservation targets—Events beyond control	472
80	SHB	1455 Use of social security numbers—Certain state departments . .	477
81	HB	1469 Enhanced raffles—Various provisions.	479
82	SHB	1493 Unemployment insurance—Job search monitoring.	481
83	ESHB	1521 Streamlined sales and use tax agreement—Local sales tax mitigation payments	483
84	SB	5005 Business corporations—Electronic notices	484
85	SB	5015 Ballot drop boxes—Fraudulent portrayal.	494
86	SB	5016 Tracked all-terrain vehicles—Registration	494
87	SB	5018 Acupuncture and eastern medicine—Scope of practice.	496
88	ESB	5026 Port districts and development authorities—Cargo handling equipment purchase	498
89	SB	5046 Workers’ compensation claim resolution settlement agreements—Various provisions	499
90	SSB	5068 Apple health—Postpartum coverage	506
91	SB	5106 Public funds—Deposit with credit union	509
92	SB	5131 Recall petitions—County clerk duties	509
93	SSB	5152 Vehicle and driver data—Disclosure and use	510
94	SSB	5169 Health providers—Personal protective equipment reimbursement—COVID-19	522
95	SB	5184 K-12 students in foster care—Building point of contact	523
96	SSB	5228 Medical schools—Health equity	525
97	ESSB	5284 Persons with disabilities—Subminimum wage certificates . . .	526
98	SB	5296 Washington state patrol retirement system—Consumer price index definition	529
99	SB	5303 Food and drug administration nonpublic information— Public records act exemption	532
100	SSB	5325 Behavioral health telemedicine reimbursement—Age limitation	534
101	SB	5347 Cooperative associations—Electronic voting	535
102	ESSB	5355 Wage liens	536
103	ESB	5356 Public works contracts—Prime contractor bidding	558
104	ESB	5372 Hemp processors—Registration and hemp extract certification.	560
105	SSB	5384 Volunteer firefighters—Definition—Employment protection	564
106	SB	5385 Municipal airports—Minimum labor standards—Size	566
107	SSB	5425 Unemployment insurance—Extended benefits	571
108	SB	5431 Rosa Franklin legislative internship program scholarship	576
109	E2SHB	1073 Paid family and medical leave—Pandemic leave assistance grants	579
110	HB	1143 Temporary trust water right donations—Walla Walla pilot local water management program	582
111	SHB	1208 Learning assistance program—Various provisions	585
112	SHB	1279 Main street tax incentive program—COVID-19	596
113	SHB	1323 Long-term services and supports trust program—Various	

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
		provisions	597
114	SHB	1383 Respiratory care practitioners—Various provisions	605
115	PV E2SSB	5160 Landlord-tenant relations	609
116	2SHB	1033 Customized employment training program tax credit— Extension	632
117	HB	1034 Park and recreation district levies—Limit—Islands in large counties.	634
118	ESHB	1109 Sexual assault investigations—Reports, reviews, and survivor rights.	638
119	ESHB	1113 School attendance—Truancy petitions.	643
120	ESHB	1176 Schools—Withholding of transcripts and diplomas— Limitation	656
121	EHB	1251 Wheeled all-terrain vehicles—Use on certain state highways .	658
122	EHB	1271 County elected officials—Various provisions	660
123	HB	1289 Winery employees between age 18 and 21	676
124	HB	1296 Government-funded behavioral health care—Business and occupation tax preference.	677
125	SHB	1314 Veterans—Behavioral health—Involuntary commitment diversion	679
126	2SHB	1325 Children and youth behavioral health—Various provisions . .	682
127	ESHB	1326 Coroners and medical examiners—Various provisions	686
128	SHB	1356 Native American names, symbols, or images—Public schools	692
129	SHB	1363 K-12 workforce secondary traumatic stress—Model policy and procedure	694
130	ESHB	1370 Early learning facilities grant and loan program—Expansion .	696
131	SHB	1379 Unpiloted aircraft systems	699
132	SHB	1423 Department of natural resources burning permits—Civil penalty	706
133	SHB	1425 Community and technical college scholarships—Eligibility . .	709
134	SHB	1472 Student achievement council—Student members	712
135	SHB	1514 Ride sharing and commute trip reduction—Various provisions	714
136	ESHB	1529 State route number 520 civil penalties account—Use for debt service.	719
137	SB	5019 Document recording standards—Commission.	720
138	SB	5048 Reinsurance agreements—Reciprocal jurisdictions	723
139	ESSB	5119 Incarcerated individuals—Unexpected fatality review	728
140	SB	5132 Trusts and estates	732
141	ESB	5164 Resentencing—Persistent offenders—Robbery in the second degree	803
142	SB	5177 Sex offenses—Nonmarriage element.	804
143	ESB	5220 Salmon recovery grants—Taxation	808
144	SSB	5249 Mastery-based learning—Various provisions	818
145	ESSB	5251 Taxes and revenue—Nonsubstantive	821
146	SSB	5254 Employers—Protective devices and equipment—Public health emergency	852
147	SSB	5401 Bachelor degrees in computer science—Community and technical colleges	853

TABLE OF CONTENTS

Chapter No.	Bill No.	Subject	Page
148	2SSB	6027 Floating residences—Shoreline management act— Definitions	854
149	HB	1022 Horse racing commission—State support	858
150	SHB	1107 Nonresident vessel permits—Various provisions	859
151	ESHB	1108 Foreclosures—Various provisions	866
152	HB	1119 Higher education instructional materials—Notice of low- cost courses.	881
153	SHB	1137 Transportation system policy goals—Priorities	882
154	E2SHB	1139 Schools—Lead in drinking water.	883
155	2SHB	1161 Drug take-back programs—Various provisions.	888
156	ESHB	1184 On-site nonpotable water systems—Risk-based water quality standards.	895
157	ESHB	1196 Audio-only telemedicine	897
158	SHB	1207 Department of licensing issued documents—Various provisions.	913
159	SHB	1218 Long-term care facilities—Various provisions	924
160	SHB	1259 Office of minority and women’s business enterprises— Audits and reviews	944
161	SHB	1269 Motor vehicle transporters—License plates.	948
162	E2SHB	1272 Department of health—Hospitals—Data reporting	950
163	ESHB	1273 Schools—Menstrual products	958
164	E2SHB	1295 Institutional education—Various provisions	959
165	EHB	1311 Substance use disorder professional certifications— Apprenticeship programs	972
166	SHB	1348 Incarcerated persons—Medical assistance.	974
167	SHB	1373 Public schools—Behavioral health resources—Website	976
168	SHB	1416 Child support collection—Insurance claim payments	977
169	ESHB	1443 Cannabis industry—Social equity	980
170	E2SHB	1504 Workforce education investment act—Various provisions . . .	985
171	2SSB	5000 Hydrogen fuel cell electric vehicles—Sales and use tax exemption.	992
172	SSB	5003 Living organ donors—Insurance	996
173	SSB	5013 Local redistricting—Deadlines.	996
174	SSB	5030 School districts—Comprehensive school counseling programs.	1002
175	SB	5031 Community aviation revitalization—Loan program	1003

CHAPTER 1

[2021Salaryschedule.sl]

SALARIES—STATE ELECTED OFFICIALS

AN ACT Relating to salaries of elected officials; and amending RCW 43.03.011, 43.03.012, and 43.03.013.

Be it enacted by the Washington citizens' commission on salaries for elected officials of the State of Washington:

Sec. 1. RCW 43.03.011 and 2019 c 5 s 1 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salaries of the state elected officials of the executive branch shall be as follows:

- (1) Effective (~~September 1, 2018~~) July 1, 2020:
 - (a) Governor ((~~\$177,107~~) \$187,353)
 - (b) Lieutenant governor ((~~\$103,937~~) \$117,300)
 - (c) Secretary of state ((~~\$124,108~~) \$134,640)
 - (d) Treasurer ((~~\$144,679~~) \$153,615)
 - (e) Auditor ((~~\$124,108~~) \$132,212)
 - (f) Attorney general ((~~\$162,599~~) \$172,259)
 - (g) Superintendent of public instruction ((~~\$136,910~~) \$153,000)
 - (h) Commissioner of public lands ((~~\$138,225~~) \$153,000)
 - (i) Insurance commissioner ((~~\$126,555~~) \$137,700)
- (2) Effective July 1, (~~2019~~) 2021:
 - (a) Governor ((~~\$182,179~~) \$187,353)
 - (b) Lieutenant governor ((~~\$111,180~~) \$117,300)
 - (c) Secretary of state ((~~\$130,560~~) \$134,640)
 - (d) Treasurer ((~~\$149,103~~) \$153,615)
 - (e) Auditor ((~~\$128,120~~) \$132,212)
 - (f) Attorney general ((~~\$167,381~~) \$172,259)
 - (g) Superintendent of public instruction ((~~\$145,860~~) \$153,000)
 - (h) Commissioner of public lands ((~~\$145,860~~) \$153,000)
 - (i) Insurance commissioner ((~~\$132,600~~) \$137,700)
- (3) Effective July 1, (~~2020~~) 2022:
 - (a) Governor ((~~\$187,353~~) \$190,632)
 - (b) Lieutenant governor ((~~\$117,300~~) \$119,353)
 - (c) Secretary of state ((~~\$134,640~~) \$136,996)
 - (d) Treasurer ((~~\$153,615~~) \$156,303)
 - (e) Auditor ((~~\$132,212~~) \$134,526)
 - (f) Attorney general ((~~\$172,259~~) \$175,274)
 - (g) Superintendent of public instruction ((~~\$153,000~~) \$155,678)
 - (h) Commissioner of public lands ((~~\$153,000~~) \$155,678)
 - (i) Insurance commissioner ((~~\$137,700~~) \$140,110)

(4) The lieutenant governor shall receive the fixed amount of his or her salary plus 1/260th of the difference between his or her salary and that of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor.

Sec. 2. RCW 43.03.012 and 2019 c 5 s 2 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 2.04.092, 2.06.062, 2.08.092, 3.58.010, and 43.03.310, the annual salaries of the judges of the state shall be as follows:

- (1) Effective (~~September 1, 2018~~) July 1, 2020:
 - (a) Chief justice of the supreme court (~~(\$193,162)~~) \$223,499
 - (b) Justices of the supreme court (~~(\$190,415)~~) \$220,320
 - (c) Judges of the court of appeals (~~(\$181,263)~~) \$209,730
 - (d) Judges of the superior court (~~(\$172,571)~~) \$199,675
 - (e) Full-time judges of the district court (~~(\$164,313)~~) \$190,120
- (2) Effective July 1, (~~2019~~) 2021:
 - (a) Chief justice of the supreme court (~~(\$213,773)~~) \$223,499
 - (b) Justices of the supreme court (~~(\$210,732)~~) \$220,320
 - (c) Judges of the court of appeals (~~(\$200,603)~~) \$209,730
 - (d) Judges of the superior court (~~(\$190,985)~~) \$199,675
 - (e) Full-time judges of the district court (~~(\$181,846)~~) \$190,120
- (3) Effective July 1, (~~2020~~) 2022:
 - (a) Chief justice of the supreme court (~~(\$223,499)~~) \$227,410
 - (b) Justices of the supreme court (~~(\$220,320)~~) \$224,176
 - (c) Judges of the court of appeals (~~(\$209,730)~~) \$213,400
 - (d) Judges of the superior court (~~(\$199,675)~~) \$203,169
 - (e) Full-time judges of the district court (~~(\$190,120)~~) \$193,447

(4) The salary for a part-time district court judge shall be the proportion of full-time work for which the position is authorized, multiplied by the salary for a full-time district court judge.

Sec. 3. RCW 43.03.013 and 2019 c 5 s 3 are each amended to read as follows:

Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salary of members of the legislature shall be:

- (1) Effective (~~September 1, 2018~~) July 1, 2020:
 - (a) Legislators (~~(\$48,731)~~) \$56,881
 - (b) Speaker of the house (~~(\$57,990)~~) \$64,881
 - (c) Senate majority leader (~~(\$57,990)~~) \$64,881
 - (d) House minority leader (~~(\$53,360)~~) \$60,881
 - (e) Senate minority leader (~~(\$53,360)~~) \$60,881
- (2) Effective July 1, (~~2019~~) 2021:
 - (a) Legislators (~~(\$52,766)~~) \$56,881
 - (b) Speaker of the house (~~(\$60,766)~~) \$64,881
 - (c) Senate majority leader (~~(\$60,766)~~) \$64,881
 - (d) House minority leader (~~(\$56,766)~~) \$60,881
 - (e) Senate minority leader (~~(\$56,766)~~) \$60,881
- (3) Effective July 1, (~~2020~~) 2022:
 - (a) Legislators (~~(\$56,881)~~) \$57,876
 - (b) Speaker of the house (~~(\$64,881)~~) \$66,016

(c) Senate majority leader (~~(\$64,881)~~) \$66,016
 (d) House minority leader (~~(\$60,881)~~) \$61,946
 (e) Senate minority leader (~~(\$60,881)~~) \$61,946

Originally filed in Office of Secretary of State February 8, 2021.

CHAPTER 2

[Engrossed Substitute Senate Bill 5061]

UNEMPLOYMENT INSURANCE

AN ACT Relating to unemployment insurance; amending RCW 28B.50.030, 50.04.323, 50.16.030, 50.20.010, 50.20.020, 50.20.100, 50.20.118, 50.20.120, 50.20.140, 50.24.014, 50.29.021, 50.29.026, 50.29.041, 50.29.062, 50.29.063, 50.44.060, 50.60.020, and 50.60.110; reenacting and amending RCW 50.20.050 and 50.29.025; adding new sections to chapter 50.04 RCW; adding a new section to chapter 50.12 RCW; adding a new section to chapter 50.60 RCW; creating new sections; repealing RCW 50.20.1201 and 50.20.1202; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. Amid an unprecedented and ongoing need for benefits and stresses on our unemployment insurance trust fund during the COVID-19 public health emergency, the legislature intends to continue assessing the funding levels of the unemployment insurance trust fund and the unemployment insurance premium rates authorized under this act. The legislature will continue to consider recommendations from the employment security department's unemployment insurance advisory committee and other impacted Washingtonians to ensure a healthy unemployment insurance trust fund that can maintain critical economic support to Washington workers and businesses while bolstering the state's economy.

Sec. 2. RCW 28B.50.030 and 2015 c 55 s 226 are each amended to read as follows:

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

(1) "Adult education" means all education or instruction, including academic, vocational education or training, basic skills and literacy training, and "occupational education" provided by public educational institutions, including common school districts for persons who are eighteen years of age and over or who hold a high school diploma or certificate. However, "adult education" shall not include academic education or instruction for persons under twenty-one years of age who do not hold a high school degree or diploma and who are attending a public high school for the sole purpose of obtaining a high school diploma or certificate, nor shall "adult education" include education or instruction provided by any four-year public institution of higher education.

(2) "Applied baccalaureate degree" means a baccalaureate degree awarded by a college under RCW 28B.50.810 for successful completion of a program of study that is:

(a) Specifically designed for individuals who hold an associate of applied science degree, or its equivalent, in order to maximize application of their technical course credits toward the baccalaureate degree; and

(b) Based on a curriculum that incorporates both theoretical and applied knowledge and skills in a specific technical field.

(3) "Board" means the workforce training and education coordinating board.

(4) "Board of trustees" means the local community and technical college board of trustees established for each college district within the state.

(5) "Center of excellence" means a community or technical college designated by the college board as a statewide leader in industry-specific, community and technical college workforce education and training.

(6) "College board" means the state board for community and technical colleges created by this chapter.

(7) "Common school board" means a public school district board of directors.

(8) "Community college" includes those higher education institutions that conduct education programs under RCW 28B.50.020.

(9) "Director" means the administrative director for the state system of community and technical colleges.

(10) "Dislocated forest product worker" means a forest products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business' services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(11) "Dislocated salmon fishing worker" means a finfish products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(12) "District" means any one of the community and technical college districts created by this chapter.

(13) "Forest products worker" means a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. ~~((For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(3).))~~

(14) "High employer demand program of study" means an apprenticeship, or an undergraduate or graduate certificate or degree program in which the number of students prepared for employment per year from in-state institutions

is substantially less than the number of projected job openings per year in that field, statewide or in a substate region.

(15) "K-12 system" means the public school program including kindergarten through the twelfth grade.

(16) "Occupational education" means education or training that will prepare a student for employment that does not require a baccalaureate degree, and education and training that will prepare a student for transfer to bachelor's degrees in professional fields, subject to rules adopted by the college board.

(17) "Qualified institutions of higher education" means:

- (a) Washington public community and technical colleges;
- (b) Private career schools that are members of an accrediting association recognized by rule of the student achievement council for the purposes of chapter 28B.92 RCW; and
- (c) Washington state apprenticeship and training council-approved apprenticeship programs.

(18) "Rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets three of the five criteria set forth in subsection (19) of this section;

(b) A nonmetropolitan county with a population of less than forty thousand in the 1990 decennial census, that meets two of the five criteria as set forth in subsection (19) of this section; or

(c) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets three of the five criteria set forth in subsection (19) of this section.

(19) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(a) A lumber and wood products employment location quotient at or above the state average;

(b) A commercial salmon fishing employment location quotient at or above the state average;

(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area of which any part is ten miles or more from an urbanized area is considered nonurbanized. A zip code totally surrounded by zip codes qualifying as nonurbanized under this definition is also considered nonurbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter.

(20) "Salmon fishing worker" means a worker in the finfish industry affected by 1994 or future salmon disasters. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries involved in the commercial and

recreational harvesting of finfish including buying and processing finfish. The commissioner may adopt rules further interpreting these definitions.

(21) "System" means the state system of community and technical colleges, which shall be a system of higher education.

(22) "Technical college" includes those higher education institutions with the mission of conducting occupational education, basic skills, literacy programs, and offering on short notice, when appropriate, programs that meet specific industry needs. For purposes of this chapter, technical colleges shall include the following college districts as created in RCW 28B.50.040: The twenty-fifth college district, the twenty-sixth college district, the twenty-seventh college district, the twenty-eighth college district, and the twenty-ninth college district.

NEW SECTION. **Sec. 3.** A new section is added to chapter 50.04 RCW to read as follows:

"Public health emergency" means a declaration or order that covers the jurisdiction where the unemployed individual was working on the date the individual became unemployed concerning any dangerous, contagious, or infectious diseases, including a pandemic, and is issued as follows:

(1) The president of the United States has declared a national or regional emergency;

(2) The governor of Washington declared a state of emergency under RCW 43.06.010(12); or

(3) The governor or state executive of another state where the unemployed individual was working at the time of the declaration declared a state of emergency.

NEW SECTION. **Sec. 4.** A new section is added to chapter 50.04 RCW to read as follows:

"Department" means the employment security department, unless the context clearly indicates otherwise.

Sec. 5. RCW 50.04.323 and 1993 c 483 s 2 are each amended to read as follows:

(1) The amount of benefits payable to an individual for any week (~~which begins after October 3, 1980, and~~) which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to such week. However:

(a) The requirements of this subsection shall apply to any pension, retirement or retired pay, annuity, or other similar periodic payment only if—

(i) Such pension, retirement or retired pay, annuity, or similar payment is under a plan maintained (or contributed to) by a base period employer; and

(ii) In the case of such a payment not made under the Social Security Act or the Railroad Retirement Act of 1974 (or corresponding provisions of prior law), services performed for such employer by the individual after the beginning of the base period (or remuneration for such services) affect eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or similar payment;

(b) The amount of any such a reduction shall take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment, in accordance with regulations prescribed by the commissioner; and

(c) No deduction shall be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

(2) In the event that a retroactive pension or retirement payment covers a period in which an individual received benefits under the provisions of this title, the amount in excess of the amount to which such individual would have been entitled had such retirement or pension payment been considered as provided in this section shall be recoverable under RCW 50.20.190.

(3) A lump sum payment accumulated in a plan described in this section paid to an individual eligible for such payment shall ~~((be prorated over the life expectancy of the individual computed in accordance with the commissioner's regulation))~~ not be deducted from the amount of benefits payable to an individual for any given week.

(4) The resulting weekly benefit amount payable after reduction under this section, if not a multiple of one dollar, shall be reduced to the next lower multiple of one dollar.

(5) Any ambiguity in subsection (1) of this section should be construed in a manner consistent with 26 U.S.C. Sec. 3304 (a)(15) ~~((as last amended by P.L. 96-364))~~.

NEW SECTION. Sec. 6. A new section is added to chapter 50.12 RCW to read as follows:

(1) By December 1, 2021, and annually thereafter until December 1, 2025, and in compliance with RCW 43.01.036, the department must report to the governor and the appropriate committees of the legislature on the following:

(a) Status of the unemployment trust fund, including any federal advances required for trust fund solvency;

(b) An analysis of the impact of the minimum weekly benefit amount increase, including comparing wages earned and benefits claimed for those individuals receiving the minimum weekly benefit amount and the average claim duration for those individuals.

(2) By December 1, 2021, and in compliance with RCW 43.01.036, the department must report to the governor and the appropriate committees of the legislature a review of the amount of wages subject to tax. This review shall include an analysis of the equitable treatment of employers based on the amount of wages subject to tax, including a comparison of the percentage of wages subject to tax for small, medium, and large businesses and examples of how changes to the amount of wages subject to tax would impact trust fund balances and employer contributions.

(3) The department must use an existing unemployment insurance advisory committee comprising of members of business and members of labor to consult in the development of this report, including any evidentiary assumptions underlying the report. The report must be specifically discussed in a minimum of two meetings of the committee each year prior to submitting the report. The report must also include a section for committee members to respond directly to the contents of the report.

(4) This section expires January 31, 2026.

Sec. 7. RCW 50.16.030 and 2011 c 4 s 4 are each amended to read as follows:

~~(1)((a) Except as provided in (b) and (c) of this subsection, moneys))~~ Moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and repayment of loans from the federal government to guarantee solvency of the unemployment compensation fund in accordance with regulations prescribed by the commissioner, except that money credited to this state's account pursuant to section 903 of the social security act, as amended, shall be used exclusively as provided in subsection (5) of this section. The commissioner shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to its account therein, as ~~((he or she))~~ the commissioner deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the treasurer shall deposit such moneys in the benefit account and shall issue his or her warrants for the payment of benefits solely from such benefits account.

~~((b) During fiscal year 2006, moneys for the payment of regular benefits as defined in RCW 50.22.010 shall be requisitioned in the following order:~~

~~(i) First, from the moneys credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended in section 209 of the temporary extended unemployment compensation act of 2002 (42 U.S.C. Sec. 1103(d)), the amount equal to the amount of benefits charged that exceed the contributions paid in the four consecutive calendar quarters ending on June 30, 2006, because the social cost factor contributions that employers are subject to under RCW 50.29.025(2)(b)(ii)(B) are less than the social cost factor contributions that these employers would have been subject to if RCW 50.29.025(2)(b)(ii)(A) had applied to these employers; and~~

~~(ii) Second, after the requisitioning required under (b)(i) of this subsection, from all other moneys credited to this state's account in the unemployment trust fund.~~

~~(c) During fiscal years 2012 and 2013, if moneys are credited to this state's account in the unemployment trust fund pursuant to section 903(f)(3) of the social security act, as amended in section 2003 of the American recovery and reinvestment act of 2009 (42 U.S.C. Sec. 1103(f)(3)), moneys for the payment of regular benefits as defined in RCW 50.22.010 shall be requisitioned in the following order:~~

~~(i) First, from the moneys credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended in section 2003 of the American recovery and reinvestment act of 2009 (42 U.S.C. Sec. 1103(f)), a total amount during the two year period consisting of fiscal years 2012 and 2013 that is equal to the total amount of temporary benefit increases under RCW 50.20.1202. This subsection shall not be construed as requiring that the total amount be requisitioned in each of these fiscal years; and~~

~~(ii) Second, after the requisitioning required under (c)(i) of this subsection, from all other moneys credited to this state's account in the unemployment trust fund.)~~

(2) Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their

custody, and RCW 43.01.050, as amended, shall not apply. All warrants issued by the treasurer for the payment of benefits and refunds shall bear the signature of the treasurer and the countersignature of the commissioner, or his or her duly authorized agent for that purpose.

(3) Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or in the discretion of the commissioner, shall be redeposited with the secretary of the treasury of the United States of America to the credit of this state's account in the unemployment trust fund.

(4) Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States of America pursuant to section 903 of the social security act, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this title pursuant to a specific appropriation by the legislature, provided that the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which:

(a) Specifies the purposes for which such money is appropriated and the amounts appropriated therefor;

(b) Limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law; and

(c) Limits the amount which may be obligated during a twelve-month period beginning on July 1st and ending on the next June 30th to an amount which does not exceed the amount by which (i) the aggregate of the amounts credited to the account of this state pursuant to section 903 of the social security act, as amended, during the same twelve-month period and the thirty-four preceding twelve-month periods, exceeds (ii) the aggregate of the amounts obligated pursuant to subsections (4) through (6) of this section and charged against the amounts credited to the account of this state during any of such thirty-five twelve-month periods. For the purposes of subsections (4) through (6) of this section, amounts obligated during any such twelve-month period shall be charged against equivalent amounts which were first credited and which are not already so charged; except that no amount obligated for administration during any such twelve-month period may be charged against any amount credited during such a twelve-month period earlier than the thirty-fourth twelve-month period preceding such period: PROVIDED, That any amount credited to this state's account under section 903 of the social security act, as amended, which has been appropriated for expenses of administration, whether or not withdrawn from the trust fund shall be excluded from the unemployment compensation fund balance for the purpose of experience rating credit determination.

(5) Money credited to the account of this state pursuant to section 903 of the social security act, as amended, may not be withdrawn or used except for the payment of benefits and for the payment of expenses of administration and of public employment offices pursuant to subsections (4) through (6) of this section. ~~((However, moneys credited because of excess amounts in federal accounts in federal fiscal years 1999, 2000, and 2001 shall be used solely for the~~

administration of the unemployment compensation program and are not subject to appropriation by the legislature for any other purpose.)

(6) Money requisitioned as provided in subsections (4) through (6) of this section for the payment of expenses of administration shall be deposited in the unemployment compensation fund, but until expended, shall remain a part of the unemployment compensation fund. The commissioner shall maintain a separate record of the deposit, obligation, expenditure and return of funds so deposited. Any money so deposited which either will not be obligated within the period specified by the appropriation law or remains unobligated at the end of the period, and any money which has been obligated within the period but will not be expended, shall be returned promptly to the account of this state in the unemployment trust fund.

Sec. 8. RCW 50.20.010 and 2020 c 7 s 8 are each amended to read as follows:

(1) An unemployed individual shall be eligible to receive waiting period credits or benefits with respect to any week in his or her eligibility period only if the commissioner finds that:

(a) ~~((He or she))~~ The individual has registered for work at, and thereafter has continued to report at, an employment office in accordance with such regulation as the commissioner may prescribe, except that the commissioner may by regulation waive or alter either or both of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which the commissioner finds that the compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this title;

(b) ~~((He or she))~~ The individual has filed an application for an initial determination and made a claim for waiting period credit or for benefits in accordance with the provisions of this title;

(c) ~~((He or she))~~ The individual is able to work, and is available for work in any trade, occupation, profession, or business for which ~~((he or she))~~ the individual is reasonably fitted.

(i) To be available for work, an individual must be ready, able, and willing, immediately to accept any suitable work which may be offered to him or her and must be actively seeking work pursuant to customary trade practices and through other methods when so directed by the commissioner or the commissioner's agents. If a labor agreement or dispatch rules apply, customary trade practices must be in accordance with the applicable agreement or rules.

(ii) Until June 30, 2021, an individual under quarantine or isolation, as defined by the department of health, as directed by a public health official during the novel coronavirus outbreak pursuant to the gubernatorial declaration of emergency of February 29, 2020, will meet the requirements of this subsection (1)(c) if the individual is able to perform, available to perform, and actively seeking work which can be performed while under quarantine or isolation.

(iii) For the purposes of this subsection, "customary trade practices" includes compliance with an electrical apprenticeship training program that includes a recognized referral system under apprenticeship program standards approved by the Washington state apprenticeship and training council;

(d) ~~((He or she))~~ The individual has been unemployed for a waiting period of one week;

(e) ~~((He or she))~~ The individual participates in reemployment services if the individual has been referred to reemployment services pursuant to the profiling system established by the commissioner under RCW 50.20.011, unless the commissioner determines that:

- (i) The individual has completed such services; or
- (ii) There is justifiable cause for the claimant's failure to participate in such services; and

(f) As to weeks ~~((beginning after March 31, 1981,))~~ which fall within an extended benefit period as defined in RCW 50.22.010, the individual meets the terms and conditions of RCW 50.22.020 with respect to benefits claimed in excess of twenty-six times the individual's weekly benefit amount.

(2) An individual's eligibility period for regular benefits shall be coincident to his or her established benefit year. An individual's eligibility period for additional or extended benefits shall be the periods prescribed elsewhere in this title for such benefits.

(3)(a) For any weeks of unemployment insurance benefits when the one week waiting period is fully paid or fully reimbursed by the federal government, subsection (1)(d) of this section is waived.

(b) For any weeks of unemployment insurance benefits when the one week waiting period is partially paid or partially reimbursed by the federal government, the department may, by rule, elect to waive subsection (1)(d) of this section.

(4) During the weeks of a public health emergency, an unemployed individual may also meet the requirements of subsection (1)(c) of this section if:

(a) The unemployed individual is able to perform, available to perform, and actively seeking suitable work which can be performed for an employer from the individual's home; and

(b) The unemployed individual or another individual residing with the unemployed individual is at higher risk of severe illness or death from the disease that is the subject of the public health emergency because the higher risk individual:

(i) Was in an age category that is defined as high risk for the disease that is the subject of the public health emergency by:

(A) The federal centers for disease control and prevention;

(B) The department of health; or

(C) The equivalent agency in the state where the individual resides; or

(ii) Has an underlying health condition, verified as required by the department by rule, that is identified as a risk factor for the disease that is the subject of the public health emergency by:

(A) The federal centers for disease control and prevention;

(B) The department of health; or

(C) The equivalent agency in the state where the individual resides.

Sec. 9. RCW 50.20.020 and 2010 c 8 s 13021 are each amended to read as follows:

(1) No week shall be counted as a waiting period week(~~(;~~

(1) if benefits have been paid with respect thereto, and

(2) unless the individual was otherwise eligible for benefits with respect thereto, and

~~(3) unless it occurs within the benefit year which includes the week with respect to which he or she claims payment of benefits)) if benefits have been paid for that week, the individual was otherwise eligible for benefits, and it occurs within the benefit year which includes the week with respect to which the individual claims payment of benefits.~~

(2) If RCW 50.20.010(1)(d) is waived, subsection (1) of this section is waived.

Sec. 10. RCW 50.20.050 and 2009 c 493 s 3 and 2009 c 247 s 1 are each reenacted and amended to read as follows:

(1) With respect to ~~((claims that have an effective date on or after January 4, 2004, and for separations that occur before September 6, 2009))~~ separations that occur on or after September 6, 2009, and for separations that occur before April 4, 2021:

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

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

(i) The duration of the work;
 (ii) The extent of direction and control by the employer over the work; and
 (iii) The level of skill required for the work in light of the ~~((individual's))~~ the claimant's training and experience.

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

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

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

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

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

~~((A) With respect to claims that have an effective date before July 2, 2006, he or she: (B))~~ The claimant: (A) Left work to relocate for the ~~((spouse's))~~

employment ~~((that, due to a mandatory military transfer: (1) Is outside the existing labor market area; and (2) is in Washington or another state that, pursuant to statute, does not consider such an individual to have left work voluntarily without good cause; and (II) remained employed as long as was reasonable prior to the move;~~

~~(B) With respect to claims that have an effective date on or after July 2, 2006, he or she: (I) Left work to relocate for the spouse's employment that, due to a mandatory military transfer, is outside the existing labor market area; and (II) remained employed as long as was reasonable prior to the move)) of a spouse or domestic partner that is outside the existing labor market area; and (B) remained employed as long as was reasonable prior to the move;~~

(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

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

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

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

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

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

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

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

(2) With respect to separations that occur on or after ~~((September 6, 2009))~~ April 4, 2021:

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

The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of

a bona fide nature, the commissioner shall consider factors including but not limited to the following:

(i) The duration of the work;
 (ii) The extent of direction and control by the employer over the work; and
 (iii) The level of skill required for the work in light of the ~~((individual's))~~ claimant's training and experience.

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

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

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

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

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

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

(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

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

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

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

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

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

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

(xi) The ~~((individual))~~ claimant left work to enter an apprenticeship program approved by the Washington state apprenticeship training council.

Benefits are payable beginning Sunday of the week prior to the week in which the ~~((individual))~~ claimant begins active participation in the apprenticeship program; or

(xii) During a public health emergency:

(A) The claimant was unable to perform the claimant's work for the employer from the claimant's home;

(B) The claimant is able to perform, available to perform, and can actively seek suitable work which can be performed for an employer from the claimant's home; and

(C) The claimant or another individual residing with the claimant is at higher risk of severe illness or death from the disease that is the subject of the public health emergency because the higher risk individual:

(I) Was in an age category that is defined as high risk for the disease that is the subject of the public health emergency by the federal centers for disease control and prevention, the department of health, or the equivalent agency in the state where the individual resides; or

(II) Has an underlying health condition, verified as required by the department by rule, that is identified as a risk factor for the disease that is the subject of the public health emergency by the federal centers for disease control and prevention, the department of health, or the equivalent agency in the state where the individual resides.

(3) Notwithstanding subsection ~~((2))~~ (1) of this section, ~~((for separations occurring on or after July 26, 2009, an individual))~~ a claimant who was simultaneously employed in full-time employment and part-time employment and is otherwise eligible for benefits from the loss of the full-time employment shall not be disqualified from benefits because the ~~((individual))~~ claimant:

(a) Voluntarily quit the part-time employment before the loss of the full-time employment; and

(b) Did not have prior knowledge that ~~((he or she))~~ the claimant would be separated from full-time employment.

Sec. 11. RCW 50.20.100 and 2006 c 13 s 14 are each amended to read as follows:

(1) Suitable work for an individual is employment in an occupation in keeping with the individual's prior work experience, education, or training and if the individual has no prior work experience, special education, or training for employment available in the general area, then employment which the individual would have the physical and mental ability to perform. In determining whether work is suitable for an individual, the commissioner shall also consider the degree of risk involved to the individual's health, safety, and morals, the degree of risk to the health of those residing with the individual during a public health emergency, the individual's physical fitness, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and such other factors as the commissioner may deem pertinent, including state and national emergencies.

(2) For individuals with base year work experience in agricultural labor, any agricultural labor available from any employer shall be deemed suitable unless it meets conditions in RCW 50.20.110 or the commissioner finds elements of specific work opportunity unsuitable for a particular individual.

(3) For part-time workers as defined in RCW 50.20.119, suitable work includes suitable work under subsection (1) of this section that is for seventeen or fewer hours per week.

(4) For individuals who have qualified for unemployment compensation benefits under RCW 50.20.050 (1)(b)(iv) or (2)(b)(iv), as applicable, an evaluation of the suitability of the work must consider the individual's need to address the physical, psychological, legal, and other effects of domestic violence or stalking.

Sec. 12. RCW 50.20.118 and 1982 1st ex.s. c 18 s 7 are each amended to read as follows:

~~(1) (Notwithstanding any other provision of this chapter, an otherwise eligible individual shall not be denied benefits for any week because he or she is in training approved under section 236(a)(1) of the Trade Act of 1974, P.L. 93-618, nor may that individual be denied benefits for any such week by reason of leaving work which is not suitable employment to enter such training, or for failure to meet any requirement of federal or state law for any such week which relates to the individual's availability for work, active search for work, or refusal to accept work.~~

~~(2) For the purposes of this section, "suitable employment" means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as described for the purposes of the Trade Act of 1974, P.L. 93-618), if the wages for such work are not less than eighty percent of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974, P.L. 93-618.)~~ For purposes of this section, "adversely affected worker," "approved training," "on-the-job training," and "suitable employment" have the same definition as in 20 C.F.R. Part 618.

(2) An adversely affected worker may not be denied benefits because:

(a) Such worker is enrolled in or participating in approved training;

(b) Such worker refuses work to which the department referred such worker because such work either would require discontinuation of approved training or interfere with successful participation in approved training;

(c) Such worker quits work that was not suitable employment and it was reasonable and necessary to quit in order to begin or continue approved training. This includes temporary employment the worker may have engaged in during a break in training;

(d) Such worker continues full-time or part-time employment while participating in approved training; or

(e) Such worker leaves on-the-job training within the first 30 days because the on-the-job training is not meeting the requirements of section 236(c)(1)(B) of the trade act of 1974, P.L. 96-618, as amended.

Sec. 13. RCW 50.20.120 and 2011 c 4 s 2 are each amended to read as follows:

~~((Except as provided in RCW 50.20.1201 and 50.20.1202, benefits shall be payable as provided in this section.))~~

~~(1) (For claims with an effective date on or after April 4, 2004, benefits)~~ Benefits shall be payable to any eligible individual during the individual's benefit year in a maximum amount equal to the lesser of twenty-six times the

weekly benefit amount, as determined in subsection (2) of this section, or one-third of the individual's base year wages under this title.

(2) (~~For claims with an effective date on or after April 24, 2005, an~~) An individual's weekly benefit amount shall be an amount equal to three and eighty-five one-hundredths percent of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest.

(3) The maximum and minimum amounts payable weekly shall be determined as of each June 30th to apply to benefit years beginning in the twelve-month period immediately following such June 30th.

(a) The maximum amount payable weekly shall be either four hundred ninety-six dollars or sixty-three percent of the "average weekly wage" for the calendar year preceding such June 30th, whichever is greater.

(b) (~~The~~) (i) For claims with an effective date of June 30, 2021, or before, the minimum amount payable weekly shall be fifteen percent of the "average weekly wage" for the calendar year preceding such June 30th.

(ii) For claims with an effective date of July 1, 2021, or after, the minimum amount payable weekly shall be 20 percent of the "average weekly wage" for the calendar year preceding such June 30th.

(c) Notwithstanding the provisions of (a) and (b) of this subsection, an individual may not receive a weekly benefit amount that exceeds the individual's weekly wage. For purposes of this subsection, the "individual's weekly wage" means the individual's annualized total wages divided by 52. For purposes of this subsection, the "individual's annualized total wages" means the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest, multiplied by four. This subsection applies to claims with an effective date on or after January 2, 2022, or such subsequent date as may be provided by the department by rule to continue eligibility of claimants in this state for federal unemployment benefits or receipt of federal funds under the coronavirus aid, relief, and economic security act (P.L. 116-136), the continued assistance for unemployed workers act of 2020 (P.L. 116-260), or other act extending such benefits or funds.

(4) If any weekly benefit, maximum benefit, or minimum benefit amount computed herein is not a multiple of one dollar, it shall be reduced to the next lower multiple of one dollar.

Sec. 14. RCW 50.20.140 and 1998 c 161 s 2 are each amended to read as follows:

(1) An application for initial determination, a claim for waiting period, or a claim for benefits shall be filed in accordance with such rules as the commissioner may prescribe. An application for an initial determination may be made by any individual whether unemployed or not. Each employer shall post and maintain printed statements of such rules in places readily accessible to individuals in his or her employment and shall make available to each such individual at the time he or she becomes unemployed, a printed statement of such rules and such notices, instructions, and other material as the commissioner may by rule prescribe. Such printed material shall be supplied by the commissioner to each employer without cost to the employer.

(2) The term "application for initial determination" shall mean a request in writing, or by other means as determined by the commissioner, for an initial determination.

(3) The term "claim for waiting period" shall mean a certification, after the close of a given week, that the requirements stated herein for eligibility for waiting period have been met. If RCW 50.20.010(1)(d) is waived, the term "claim for waiting period" is not applicable.

(4) The term "claim for benefits" shall mean a certification, after the close of a given week, that the requirements stated herein for eligibility for receipt of benefits have been met.

(5) A representative designated by the commissioner shall take the application for initial determination and for the claim for waiting period credits or for benefits. When an application for initial determination has been made, the employment security department shall promptly make an initial determination which shall be a statement of the applicant's base year wages, ~~((his or her))~~ weekly benefit amount, ~~((his or her))~~ maximum amount of benefits potentially payable, and ~~((his or her))~~ benefit year. Such determination shall fix the general conditions under which waiting period credit shall be granted and under which benefits shall be paid during any period of unemployment occurring within the benefit year fixed by such determination.

Sec. 15. RCW 50.24.014 and 2016 sp.s. c 36 s 941 are each amended to read as follows:

(1)(a) A separate and identifiable account to provide for the financing of special programs to assist the unemployed is established in the administrative contingency fund. All money in this account shall be expended solely for the purposes of this title and for no other purposes whatsoever. Contributions to this account shall accrue and become payable by each employer, except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, at a basic rate of two one-hundredths of one percent. The amount of wages subject to tax shall be determined under RCW 50.24.010.

(b) A separate and identifiable account is established in the administrative contingency fund for financing the employment security department's administrative costs under RCW 50.22.150 and 50.22.155 and the costs under RCW 50.22.150(11) and 50.22.155 (1)(m) and (2)(m). All money in this account shall be expended solely for the purposes of this title and for no other purposes whatsoever. Contributions to this account shall accrue and become payable by each employer, except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, those employers who are required to make payments in lieu of contributions, those employers described under RCW 50.29.025(~~((2))~~) (1)(d), and those qualified employers assigned rate class 20 or rate class 40, as applicable, under RCW 50.29.025, at a basic rate of one one-hundredth of one percent. The amount of wages subject to tax shall be determined under RCW 50.24.010. Any amount of contributions payable under this subsection (1)(b) that exceeds the amount that would have

been collected at a rate of four one-thousandths of one percent must be deposited in the account created in (a) of this subsection.

(2)(a) Contributions under this section shall become due and be paid by each employer under rules as the commissioner may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in the employ of the employer. Any deduction in violation of this section is unlawful.

(b) In the payment of any contributions under this section, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(3) If the commissioner determines that federal funding has been increased to provide financing for the services specified in chapter 50.62 RCW, the commissioner shall direct that collection of contributions under this section be terminated on the following January 1st.

~~((4) During the 2015–2017 fiscal biennium, the legislature may transfer into the unrestricted administrative contingency fund and into the state general fund from the account in subsection (1)(b) of this section such amounts as reflect the excess fund balance of the account.))~~

Sec. 16. RCW 50.29.021 and 2020 c 86 s 3 are each amended to read as follows:

(1)(a) An experience rating account shall be established and maintained for each employer, except employers as described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, based on existing records of the employment security department.

(b) Benefits paid to an eligible individual shall be charged to the experience rating accounts of each of such individual's employers during the individual's base year in the same ratio that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during that base year, except as otherwise provided in this section.

(c) When the eligible individual's separating employer is a covered contribution paying base year employer, benefits paid to the eligible individual shall be charged to the experience rating account of only the individual's separating employer if the individual qualifies for benefits under:

(i) RCW 50.20.050 (1)(b)(i) or (2)(b)(i), as applicable, and became unemployed after having worked and earned wages in the bona fide work; or

(ii) RCW 50.20.050 (1)(b) (v) through (x) or (2)(b) (v) through (x).

(2) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers except those employers described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, as follows:

(a) Benefits paid to any individual later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer, except as provided in subsection (4) of this section.

(b) Benefits paid to an individual filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer only if:

(i) The individual files under RCW 50.06.020(1) after receiving crime victims' compensation for a disability resulting from a nonwork-related occurrence; or

(ii) The individual files under RCW 50.06.020(2).

(c) Benefits paid which represent the state's share of benefits payable as extended benefits defined under RCW 50.22.010(6) shall not be charged to the experience rating account of any contribution paying employer.

(d) In the case of individuals who requalify for benefits under RCW 50.20.050 or 50.20.060, benefits based on wage credits earned prior to the disqualifying separation shall not be charged to the experience rating account of the contribution paying employer from whom that separation took place.

(e) Benefits paid to an individual who qualifies for benefits under RCW 50.20.050 (1)(b) (iv) or (xi) or (2)(b) (iv) ~~((or)),~~ (xi), or (xii), as applicable, shall not be charged to the experience rating account of any contribution paying employer.

~~(f) ((With respect to claims with an effective date on or after the first Sunday following April 22, 2005, benefits))~~ Benefits paid that exceed the benefits that would have been paid if the weekly benefit amount for the claim had been determined as one percent of the total wages paid in the individual's base year shall not be charged to the experience rating account of any contribution paying employer. This subsection (2)(f) does not apply to the calculation of contribution rates under RCW 50.29.025 for rate year 2010 and thereafter.

~~(g) ((The forty-five dollar increase paid as part of an individual's weekly benefit amount as provided in RCW 50.20.1201 and the twenty-five dollar increase paid as part of an individual's weekly benefit amount as provided in RCW 50.20.1202 shall not be charged to the experience rating account of any contribution paying employer.~~

~~(h) With respect to claims where the minimum amount payable weekly is increased to one hundred fifty-five dollars pursuant to RCW 50.20.1201(3), benefits paid that exceed the benefits that would have been paid if the minimum amount payable weekly had been calculated pursuant to RCW 50.20.120 shall not be charged to the experience rating account of any contribution paying employer.~~

~~((h))~~ Upon approval of an individual's training benefits plan submitted in accordance with RCW 50.22.155(2), an individual is considered enrolled in training, and regular benefits beginning with the week of approval shall not be charged to the experience rating account of any contribution paying employer.

~~((h))~~ (h) Training benefits paid to an individual under RCW 50.22.155 shall not be charged to the experience rating account of any contribution paying employer.

(i)(i) Benefits paid during the one week waiting period when the one week waiting period is fully paid or fully reimbursed by the federal government shall not be charged to the experience rating account of any contribution paying employer.

(ii) In the event the one week waiting period is partially paid or partially reimbursed by the federal government, the department may, by rule, elect to not charge, in full or in part, benefits paid during the one week waiting period to the experience rating account of any contribution paying employer.

(j) Benefits paid for all weeks starting with the week ending March 28, 2020, and ending with the week ending May 30, 2020, shall not be charged to the experience rating account of any contribution paying employer.

(3)(a) A contribution paying base year employer, except employers as provided in subsection (5) of this section, not otherwise eligible for relief of charges for benefits under this section, may receive such relief if the benefit charges result from payment to an individual who:

(i) Last left the employ of such employer voluntarily for reasons not attributable to the employer;

(ii) Was discharged for misconduct or gross misconduct connected with his or her work not a result of inability to meet the minimum job requirements;

(iii) Is unemployed as a result of closure or severe curtailment of operation at the employer's plant, building, worksite, or other facility. This closure must be for reasons directly attributable to a catastrophic occurrence such as fire, flood, or other natural disaster, or to the presence of any dangerous, contagious, or infectious disease that is the subject of a public health emergency at the employer's plant, building, worksite, or other facility;

(iv) Continues to be employed on a regularly scheduled permanent part-time basis by a base year employer and who at some time during the base year was concurrently employed and subsequently separated from at least one other base year employer. Benefit charge relief ceases when the employment relationship between the employer requesting relief and the claimant is terminated. This subsection does not apply to shared work employers under chapter 50.60 RCW;

(v) Continues to be employed on a regularly scheduled permanent part-time basis by a base year employer and who qualified for two consecutive unemployment claims where wages were attributable to at least one employer who employed the individual in both base years. Benefit charge relief ceases when the employment relationship between the employer requesting relief and the claimant is terminated. This subsection does not apply to shared work employers under chapter 50.60 RCW;

(vi) Was hired to replace an employee who is a member of the military reserves or National Guard and was called to federal active military service by the president of the United States and is subsequently laid off when that employee is reemployed by their employer upon release from active duty within the time provided for reemployment in RCW 73.16.035;

(vii) Worked for an employer for twenty weeks or less, and was laid off at the end of temporary employment when that employee temporarily replaced a permanent employee receiving family or medical leave benefits under Title 50A RCW, and the layoff is due to the return of that permanent employee. This subsection (3)(a)(vii) applies to claims with an effective date on or after January 1, 2020; or

(viii) Was discharged because the individual was unable to satisfy a job prerequisite required by law or administrative rule.

(b) The employer requesting relief of charges under this subsection must request relief in writing within thirty days following mailing to the last known address of the notification of the valid initial determination of such claim, stating the date and reason for the separation or the circumstances of continued employment. The commissioner, upon investigation of the request, shall determine whether relief should be granted.

(4) When a benefit claim becomes invalid due to an amendment or adjustment of a report where the employer failed to report or inaccurately reported hours worked or remuneration paid, or both, all benefits paid will be charged to the experience rating account of the contribution paying employer or employers that originally filed the incomplete or inaccurate report or reports. An employer who reimburses the trust fund for benefits paid to workers and who fails to report or inaccurately reported hours worked or remuneration paid, or both, shall reimburse the trust fund for all benefits paid that are based on the originally filed incomplete or inaccurate report or reports.

(5) An employer's experience rating account may not be relieved of charges for a benefit payment and an employer who reimburses the trust fund for benefit payments may not be credited for a benefit payment if a benefit payment was made because the employer or employer's agent failed to respond timely or adequately to a written request of the department for information relating to the claim or claims without establishing good cause for the failure and the employer or employer's agent has a pattern of such failures. The commissioner has the authority to determine whether the employer has good cause under this subsection.

(a) For the purposes of this subsection, "adequately" means providing accurate information of sufficient quantity and quality that would allow a reasonable person to determine eligibility for benefits.

(b)(i) For the purposes of this subsection, "pattern" means a benefit payment was made because the employer or employer's agent failed to respond timely or adequately to a written request of the department for information relating to a claim or claims without establishing good cause for the failure, if the greater of the following calculations for an employer is met:

(A) At least three times in the previous two years; or

(B) Twenty percent of the total current claims against the employer.

(ii) If an employer's agent is utilized, a pattern is established based on each individual client employer that the employer's agent represents.

Sec. 17. RCW 50.29.025 and 2011 c 4 s 16 and 2011 c 3 s 3 are each reenacted and amended to read as follows:

(1) ~~(For contributions assessed for rate years 2005 through 2009, the contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection, and the solvency surcharge determined under RCW 50.29.041, if any.~~

(a) The array calculation factor rate shall be determined as follows:

(i) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (A) Identification number; (B) benefit ratio; and (C) taxable payrolls for the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut off date.

(ii) Each employer in the array shall be assigned to one of forty rate classes according to his or her benefit ratio as follows, and, except as provided in RCW 50.29.026, the array calculation factor rate for each employer in the array shall be the rate specified in the rate class to which the employer has been assigned:

Benefit Ratio		Rate Class	Rate (percent)
At least	Less than		
	0.000001	1	0.00
0.000001	0.001250	2	0.13
0.001250	0.002500	3	0.25
0.002500	0.003750	4	0.38
0.003750	0.005000	5	0.50
0.005000	0.006250	6	0.63
0.006250	0.007500	7	0.75
0.007500	0.008750	8	0.88
0.008750	0.010000	9	1.00
0.010000	0.011250	10	1.15
0.011250	0.012500	11	1.30
0.012500	0.013750	12	1.45
0.013750	0.015000	13	1.60
0.015000	0.016250	14	1.75
0.016250	0.017500	15	1.90
0.017500	0.018750	16	2.05
0.018750	0.020000	17	2.20
0.020000	0.021250	18	2.35
0.021250	0.022500	19	2.50
0.022500	0.023750	20	2.65
0.023750	0.025000	21	2.80
0.025000	0.026250	22	2.95
0.026250	0.027500	23	3.10
0.027500	0.028750	24	3.25
0.028750	0.030000	25	3.40
0.030000	0.031250	26	3.55
0.031250	0.032500	27	3.70
0.032500	0.033750	28	3.85
0.033750	0.035000	29	4.00
0.035000	0.036250	30	4.15
0.036250	0.037500	31	4.30
0.037500	0.040000	32	4.45
0.040000	0.042500	33	4.60
0.042500	0.045000	34	4.75
0.045000	0.047500	35	4.90

0.047500	0.050000	36	5.05
0.050000	0.052500	37	5.20
0.052500	0.055000	38	5.30
0.055000	0.057500	39	5.35
0.057500		40	5.40

(b) The graduated social cost factor rate shall be determined as follows:

(i)(A) Except as provided in (b)(i)(B) and (C) of this subsection, the commissioner shall calculate the flat social cost factor for a rate year by dividing the total social cost by the total taxable payroll. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The flat social cost factor shall be expressed as a percentage.

(B) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide more than ten months of unemployment benefits, the commissioner shall calculate the flat social cost factor for the rate year immediately following the cut-off date by reducing the total social cost by the dollar amount that represents the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits above ten months and dividing the result by the total taxable payroll. However, the calculation under this subsection (1)(b)(i)(B) for a rate year may not result in a flat social cost factor that is more than four-tenths lower than the calculation under (b)(i)(A) of this subsection for that rate year.

For the purposes of this subsection, the commissioner shall determine the number of months of unemployment benefits in the unemployment compensation fund using the benefit cost rate for the average of the three highest calendar benefit cost rates in the twenty consecutive completed calendar years immediately preceding the cut-off date or a period of consecutive calendar years immediately preceding the cut-off date that includes three recessions, if longer.

(C) The minimum flat social cost factor calculated under this subsection (1)(b) shall be six-tenths of one percent, except that if the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide:

(I) At least twelve months but less than fourteen months of unemployment benefits, the minimum shall be five-tenths of one percent; or

(H) At least fourteen months of unemployment benefits, the minimum shall be five-tenths of one percent, except that, for employers in rate class 1, the minimum shall be forty-five hundredths of one percent.

(ii)(A) Except as provided in (b)(ii)(B) of this subsection, the graduated social cost factor rate for each employer in the array is the flat social cost factor multiplied by the percentage specified as follows for the rate class to which the employer has been assigned in (a)(ii) of this subsection, except that the sum of an employer's array calculation factor rate and the graduated social cost factor rate may not exceed six and five-tenths percent or, for employers whose North American industry classification system code is within "111," "112," "1141," "115," "3114," "3117," "42448," or "49312," may not exceed six percent through

rate year 2007 and may not exceed five and seven-tenths percent for rate years 2008 and 2009:

- (I) Rate class 1—78 percent;
- (II) Rate class 2—82 percent;
- (III) Rate class 3—86 percent;
- (IV) Rate class 4—90 percent;
- (V) Rate class 5—94 percent;
- (VI) Rate class 6—98 percent;
- (VII) Rate class 7—102 percent;
- (VIII) Rate class 8—106 percent;
- (IX) Rate class 9—110 percent;
- (X) Rate class 10—114 percent;
- (XI) Rate class 11—118 percent; and
- (XII) Rate classes 12 through 40—120 percent.

(B) For contributions assessed beginning July 1, 2005, through December 31, 2007, for employers whose North American industry classification system code is "111," "112," "1141," "115," "3114," "3117," "42448," or "49312," the graduated social cost factor rate is zero.

(iii) For the purposes of this section:

(A) "Total social cost" means the amount calculated by subtracting the array calculation factor contributions paid by all employers with respect to the four consecutive calendar quarters immediately preceding the computation date and paid to the employment security department by the cut-off date from the total unemployment benefits paid to claimants in the same four consecutive calendar quarters. To calculate the flat social cost factor for rate year 2005, the commissioner shall calculate the total social cost using the array calculation factor contributions that would have been required to be paid by all employers in the calculation period if (a) of this subsection had been in effect for the relevant period. To calculate the flat social cost factor for rate years 2010 and 2011, the forty-five dollar increase paid as part of an individual's weekly benefit amount as provided in RCW 50.20.1201 shall not be considered for purposes of calculating the total unemployment benefits paid to claimants in the four consecutive calendar quarters immediately preceding the computation date.

(B) "Total taxable payroll" means the total amount of wages subject to tax, as determined under RCW 50.24.010, for all employers in the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(c) For employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due:

(i) The array calculation factor rate shall be two-tenths higher than that in rate class 40, except employers who have an approved agency-deferred payment contract by September 30th of the previous rate year. If any employer with an approved agency-deferred payment contract fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the employer's tax rate shall immediately revert to an array calculation factor rate two-tenths higher than that in rate class 40; and

(ii) The social cost factor rate shall be the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection.

(d) For all other employers not qualified to be in the array:

~~(i) For rate years 2005, 2006, and 2007:~~

~~(A) The array calculation factor rate shall be a rate equal to the average industry array calculation factor rate as determined by the commissioner, plus fifteen percent of that amount; however, the rate may not be less than one percent or more than the array calculation factor rate in rate class 40; and~~

~~(B) The social cost factor rate shall be a rate equal to the average industry social cost factor rate as determined by the commissioner, plus fifteen percent of that amount, but not more than the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection.~~

~~(ii) For contributions assessed for rate years 2008 and 2009:~~

~~(A) The array calculation factor rate shall be a rate equal to the average industry array calculation factor rate as determined by the commissioner, multiplied by the history factor, but not less than one percent or more than the array calculation factor rate in rate class 40;~~

~~(B) The social cost factor rate shall be a rate equal to the average industry social cost factor rate as determined by the commissioner, multiplied by the history factor, but not more than the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection; and~~

~~(C) The history factor shall be based on the total amounts of benefits charged and contributions paid in the three fiscal years ending prior to the computation date by employers not qualified to be in the array, other than employers in (e) of this subsection, who were first subject to contributions in the calendar year ending three years prior to the computation date. The commissioner shall calculate the history ratio by dividing the total amount of benefits charged by the total amount of contributions paid in this three-year period by these employers. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five one-hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The commissioner shall determine the history factor according to the history ratio as follows:~~

	History Ratio		History Factor (percent)
	At least	Less than	
(I)		.95	90
(II)	.95	1.05	100
(III)	1.05		115

~~(2) For contributions assessed in rate year 2010 and thereafter, the))~~ The contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection, and the solvency surcharge determined under RCW 50.29.041, if any.

~~(a) The array calculation factor rate shall be determined as follows:~~

~~(i) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer:~~
~~(A) Identification number; (B) benefit ratio; and (C) taxable payrolls for the four~~

consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(ii) Each employer in the array shall be assigned to one of forty rate classes according to his or her benefit ratio as follows, and, except as provided in RCW 50.29.026, the array calculation factor rate for each employer in the array shall be the rate specified in the rate class to which the employer has been assigned:

Benefit Ratio		Rate Class	Rate (percent)
At least	Less than		
	0.000001	1	0.00
0.000001	0.001250	2	0.11
0.001250	0.002500	3	0.22
0.002500	0.003750	4	0.33
0.003750	0.005000	5	0.43
0.005000	0.006250	6	0.54
0.006250	0.007500	7	0.65
0.007500	0.008750	8	0.76
0.008750	0.010000	9	0.88
0.010000	0.011250	10	1.01
0.011250	0.012500	11	1.14
0.012500	0.013750	12	1.28
0.013750	0.015000	13	1.41
0.015000	0.016250	14	1.54
0.016250	0.017500	15	1.67
0.017500	0.018750	16	1.80
0.018750	0.020000	17	1.94
0.020000	0.021250	18	2.07
0.021250	0.022500	19	2.20
0.022500	0.023750	20	2.38
0.023750	0.025000	21	2.50
0.025000	0.026250	22	2.63
0.026250	0.027500	23	2.75
0.027500	0.028750	24	2.88
0.028750	0.030000	25	3.00
0.030000	0.031250	26	3.13
0.031250	0.032500	27	3.25
0.032500	0.033750	28	3.38
0.033750	0.035000	29	3.50
0.035000	0.036250	30	3.63

0.036250	0.037500	31	3.75
0.037500	0.040000	32	4.00
0.040000	0.042500	33	4.25
0.042500	0.045000	34	4.50
0.045000	0.047500	35	4.75
0.047500	0.050000	36	5.00
0.050000	0.052500	37	5.15
0.052500	0.055000	38	5.25
0.055000	0.057500	39	5.30
0.057500		40	5.40

(b) The graduated social cost factor rate shall be determined as follows:

(i)(A) Except as provided in (b)(i)(B) and (C) of this subsection, the commissioner shall calculate the flat social cost factor for a rate year by dividing the total social cost by the total taxable payroll. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The flat social cost factor shall be expressed as a percentage.

(B)(I) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide more than ten months of unemployment benefits, the commissioner shall calculate the flat social cost factor for the rate year immediately following the cut-off date by reducing the total social cost by the dollar amount that represents the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits above ten months and dividing the result by the total taxable payroll. However, the calculation under this subsection (~~((2))~~) (1)(b)(i)(B) for a rate year may not result in a flat social cost factor that is more than four-tenths lower than the calculation under (b)(i)(A) of this subsection for that rate year. For rate year 2011 and thereafter, the calculation may not result in a flat social cost factor that is more than one and twenty-two one-hundredths percent except for rate year 2021 the calculation may not result in a flat social cost factor that is more than five-tenths percent, for rate year 2022 the calculation may not result in a flat social cost factor that is more than seventy-five one-hundredths percent, for rate year 2023 the calculation may not result in a flat social cost factor that is more than eight-tenths percent, for rate year 2024 the calculation may not result in a flat social cost factor that is more than eighty-five one-hundredths percent, and for rate year 2025 the calculation may not result in a flat social cost factor that is more than nine-tenths percent.

(II) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide ten months of unemployment benefits or less, the flat social cost factor for the rate year immediately following the cut-off date may not increase by more than fifty percent over the previous rate year or may not exceed one and twenty-two one-hundredths percent, whichever is greater.

(III) For the purposes of this subsection (~~((2))~~) (1)(b), the commissioner shall determine the number of months of unemployment benefits in the unemployment compensation fund using the benefit cost rate for the average of the three highest calendar benefit cost rates in the twenty consecutive completed calendar years immediately preceding the cut-off date or a period of consecutive calendar years immediately preceding the cut-off date that includes three recessions, if longer. (~~(The twenty-five dollar increase paid as part of an individual's weekly benefit amount as provided in RCW 50.20.1202 shall not be considered in calculating the benefit cost rate when determining the number of months of unemployment benefits in the unemployment compensation fund.)~~)

(C) The minimum flat social cost factor calculated under this subsection (~~((2))~~) (1)(b) shall be six-tenths of one percent, except that if the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide:

(I) At least ten months but less than eleven months of unemployment benefits, the minimum shall be five-tenths of one percent; or

(II) At least eleven months but less than twelve months of unemployment benefits, the minimum shall be forty-five hundredths of one percent; or

(III) At least twelve months but less than thirteen months of unemployment benefits, the minimum shall be four-tenths of one percent; or

(IV) At least thirteen months but less than fifteen months of unemployment benefits, the minimum shall be thirty-five hundredths of one percent; or

(V) At least fifteen months but less than seventeen months of unemployment benefits, the minimum shall be twenty-five hundredths of one percent; or

(VI) At least seventeen months but less than eighteen months of unemployment benefits, the minimum shall be fifteen hundredths of one percent; or

(VII) At least eighteen months of unemployment benefits, the minimum shall be fifteen hundredths of one percent through rate year 2011 and shall be zero thereafter.

(ii)(~~(A)~~) For rate years through 2010, the graduated social cost factor rate for each employer in the array is the flat social cost factor multiplied by the percentage specified as follows for the rate class to which the employer has been assigned in (a)(ii) of this subsection, except that the sum of an employer's array calculation factor rate and the graduated social cost factor rate may not exceed six percent or, for employers whose North American industry classification system code is within "111," "112," "1141," "115," "3114," "3117," "42448," or "49312," may not exceed five and four-tenths percent:

(I) Rate class 1 — 78 percent;

(II) Rate class 2 — 82 percent;

(III) Rate class 3 — 86 percent;

(IV) Rate class 4 — 90 percent;

(V) Rate class 5 — 94 percent;

(VI) Rate class 6 — 98 percent;

(VII) Rate class 7 — 102 percent;

(VIII) Rate class 8 — 106 percent;

(IX) Rate class 9 — 110 percent;

(X) Rate class 10 — 114 percent;

~~(XI) Rate class 11 - 118 percent; and~~

~~(XII) Rate classes 12 through 40 - 120 percent.~~

~~(B) For rate years 2011 and thereafter, the~~) The graduated social cost factor rate for each employer in the array is the flat social cost factor multiplied by the percentage specified as follows for the rate class to which the employer has been assigned in (a)(ii) of this subsection, except that the sum of an employer's array calculation factor rate and the graduated social cost factor rate may not exceed six percent or, for employers whose North American industry classification system code is within "111," "112," "1141," "115," "3114," "3117," "42448," or "49312," may not exceed five and four-tenths percent:

~~((H))~~ (A) Rate class 1 - 40 percent;

~~((HH))~~ (B) Rate class 2 - 44 percent;

~~((HHH))~~ (C) Rate class 3 - 48 percent;

~~((HVV))~~ (D) Rate class 4 - 52 percent;

~~((VV))~~ (E) Rate class 5 - 56 percent;

~~((VVH))~~ (F) Rate class 6 - 60 percent;

~~((VVHH))~~ (G) Rate class 7 - 64 percent;

~~((VVHHH))~~ (H) Rate class 8 - 68 percent;

~~((HX))~~ (I) Rate class 9 - 72 percent;

~~((X))~~ (J) Rate class 10 - 76 percent;

~~((XH))~~ (K) Rate class 11 - 80 percent;

~~((XHH))~~ (L) Rate class 12 - 84 percent;

~~((XHHH))~~ (M) Rate class 13 - 88 percent;

~~((XHV))~~ (N) Rate class 14 - 92 percent;

~~((XVV))~~ (O) Rate class 15 - 96 percent;

~~((XVVH))~~ (P) Rate class 16 - 100 percent;

~~((XVVHH))~~ (Q) Rate class 17 - 104 percent;

~~((XVVHHH))~~ (R) Rate class 18 - 108 percent;

~~((XIX))~~ (S) Rate class 19 - 112 percent;

~~((XX))~~ (T) Rate class 20 - 116 percent; and

~~((XXI))~~ (U) Rate classes 21 through 40 - 120 percent.

(iii) For the purposes of this section:

(A) "Total social cost" means the amount calculated by subtracting the array calculation factor contributions paid by all employers with respect to the four consecutive calendar quarters immediately preceding the computation date and paid to the employment security department by the cut-off date from the total unemployment benefits paid to claimants in the same four consecutive calendar quarters. ~~((To calculate the flat social cost factor for rate years 2012 and 2013, the twenty five dollar increase paid as part of an individual's weekly benefit amount as provided in RCW 50.20.1202 shall not be considered for purposes of calculating the total unemployment benefits paid to claimants in the four consecutive calendar quarters immediately preceding the computation date.))~~

(B) "Total taxable payroll" means the total amount of wages subject to tax, as determined under RCW 50.24.010, for all employers in the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(c) For employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due:

(i) ~~((For rate years through 2010:~~

~~(A) The array calculation factor rate shall be two-tenths higher than that in rate class 40, except employers who have an approved agency-deferred payment contract by September 30th of the previous rate year. If any employer with an approved agency-deferred payment contract fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the employer's tax rate shall immediately revert to an array calculation factor rate two-tenths higher than that in rate class 40; and~~

~~(B) The social cost factor rate shall be the social cost factor rate assigned to rate class 40 under (b)(ii)(A) of this subsection.~~

~~(ii) For rate years 2011 and thereafter:)~~

~~(A)((H)) For an employer who does not enter into an approved agency-deferred payment contract as described in (c)((ii)(A)(H) or (H)) (i)(B) or (C) of this subsection, the array calculation factor rate shall be the rate it would have been if the employer had not been delinquent in payment plus an additional one percent or, if the employer is delinquent in payment for a second or more consecutive year, an additional two percent;~~

~~((H)) (B) For an employer who enters an approved agency-deferred payment contract by September 30th of the previous rate year, the array calculation factor rate shall be the rate it would have been if the employer had not been delinquent in payment;~~

~~((H)) (C) For an employer who enters an approved agency-deferred payment contract after September 30th of the previous rate year, but within thirty days of the date the department sent its first tax rate notice, the array calculation factor rate shall be the rate it would have been had the employer not been delinquent in payment plus an additional one-half of one percent or, if the employer is delinquent in payment for a second or more consecutive year, an additional one and one-half percent;~~

~~((H)) (D) For an employer who enters an approved agency-deferred payment contract as described in (c)((ii)(A)(H) or (H)) (i)(B) or (C) of this subsection, but who fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the array calculation factor rate shall immediately revert to the applicable array calculation factor rate under (c)((ii)(A)(H)) (i)(A) of this subsection; and~~

~~((B)) (ii) The social cost factor rate shall be the social cost factor rate assigned to rate class 40 under (b)(ii)((B)) (A) of this subsection.~~

~~(d) For all other employers not qualified to be in the array:~~

~~(i) The array calculation factor rate shall be a rate equal to the average industry array calculation factor rate as determined by the commissioner, multiplied by the history factor, but not less than one percent or more than the array calculation factor rate in rate class 40;~~

~~(ii) The social cost factor rate shall be a rate equal to the average industry social cost factor rate as determined by the commissioner, multiplied by the history factor, but not more than the social cost factor rate assigned to rate class 40 ((for the relevant year)) under (b)(ii)((A) or (B)) of this subsection; and~~

~~(iii) The history factor shall be based on the total amounts of benefits charged and contributions paid in the three fiscal years ending prior to the computation date by employers not qualified to be in the array, other than employers in (c) of this subsection, who were first subject to contributions in the calendar year ending three years prior to the computation date. The~~

commissioner shall calculate the history ratio by dividing the total amount of benefits charged by the total amount of contributions paid in this three-year period by these employers. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five one-hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The commissioner shall determine the history factor according to the history ratio as follows:

	History Ratio		History Factor (percent)
	At least	Less than	
(A)		.95	90
(B)	.95	1.05	100
(C)	1.05		115

~~((3))~~ (2) Assignment of employers by the commissioner to industrial classification, for purposes of this section, shall be in accordance with established classification practices found in the North American industry classification system code.

Sec. 18. RCW 50.29.026 and 2003 2nd sp.s. c 4 s 17 are each amended to read as follows:

(1) ~~((Beginning with contributions assessed for rate year 1996,))~~ Except as provided in subsection (3) of this section, a qualified employer's contribution rate ~~((applicable for rate years beginning before January 1, 2005,))~~ or array calculation factor rate ~~((applicable for rate years beginning on or after January 1, 2005,))~~ determined under RCW 50.29.025 may be modified as follows:

(a) Subject to the limitations of this subsection, an employer may make a voluntary contribution of an amount equal to part or all of the benefits charged to the employer's account during the two years most recently ended on June 30th that were used for the purpose of computing the employer's contribution rate ~~((applicable for rate years beginning before January 1, 2005,))~~ or array calculation factor rate ~~((applicable for rate years beginning on or after January 1, 2005,))~~. On receiving timely payment of a voluntary contribution, plus a surcharge of ten percent of the amount of the voluntary contribution, the commissioner shall cancel the benefits equal to the amount of the voluntary contribution, excluding the surcharge, and compute a new benefit ratio for the employer. The employer shall then be assigned the contribution rate applicable for rate years beginning before January 1, 2005, or array calculation factor rate applicable for rate years beginning on or after January 1, 2005, applicable to the rate class within which the recomputed benefit ratio is included. The minimum amount of a voluntary contribution, excluding the surcharge, must be an amount that will result in a recomputed benefit ratio that is in a rate class at least four rate classes lower than the rate class that included the employer's original benefit ratio.

(b) Payment of a voluntary contribution is considered timely if received by the department during the period beginning on the date of mailing to the employer the notice of contribution rate ~~((applicable for rate years beginning~~

~~before January 1, 2005, or notice of array calculation factor rate applicable for rate years beginning on or after January 1, 2005,)) required under this title for the rate year for which the employer is seeking a modification of ((his or her)) the employer's rate and ending on February 15th of that rate year ((or, for voluntary contributions for rate year 2000, ending on March 31, 2000)).~~

(c) A benefit ratio may not be recomputed nor a rate be reduced under this section as a result of a voluntary contribution received after the payment period prescribed in (b) of this subsection.

(2) ~~((This))~~ Except as provided in subsection (3) of this section, this section does not apply to any employer who has not had an increase of at least twelve rate classes from the previous tax rate year.

(3) From the effective date of this section and until May 31, 2026, the following applies:

(a) The surcharge in subsection (1)(a) of this section will not be charged or used in the calculations;

(b) The ending payment date in subsection (1)(b) of this section is March 31st;

(c) The minimum amount of a voluntary contribution must be an amount that will result in a recomputed benefit ratio that is in a rate class at least two rate classes lower than the rate class that included the employer's original benefit ratio; and

(d) This section does not apply to any employer who has not had an increase of at least eight rate classes from the previous tax rate year.

Sec. 19. RCW 50.29.041 and 2006 c 13 s 5 are each amended to read as follows:

~~((Beginning with contributions assessed for rate year 2005))~~ Except for contributions assessed for rate years 2021, 2022, 2023, 2024, and 2025, the contribution rate of each employer subject to contributions under RCW 50.24.010 shall include a solvency surcharge determined as follows:

(1) This section shall apply to employers' contributions for a rate year immediately following a cut-off date only if, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide fewer than seven months of unemployment benefits.

(2) The solvency surcharge shall be the lowest rate necessary, as determined by the commissioner, but not more than two-tenths of one percent, to provide revenue during the applicable rate year that will fund unemployment benefits for the number of months that is the difference between nine months and the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits.

(3) The basis for determining the number of months of unemployment benefits shall be the same basis used in RCW 50.29.025~~((2))~~ (1)(b)(i)(B).

Sec. 20. RCW 50.29.062 and 2012 1st sp.s. c 2 s 1 are each amended to read as follows:

(1) If the department finds that a significant purpose of the transfer of the business is to obtain a reduced array calculation factor rate, contribution rates shall be computed and penalties and other sanctions shall apply as specified in RCW 50.29.063.

(2) If subsection (1) of this section and RCW 50.29.063 do not apply and if the department finds that an employer is a successor, or partial successor, to a predecessor business, predecessor and successor employer contribution rates shall be computed in the following manner:

(a) If the successor is an employer, as defined in RCW 50.04.080, at the time of the transfer of a business, the following applies:

(i) The successor's contribution rate shall remain unchanged for the remainder of the rate year in which the transfer occurs.

(ii) Beginning January 1st following the transfer, the successor's contribution rate for each rate year shall be based on a combination of the following:

(A) The successor's experience with payrolls and benefits; and

(B) Any experience assigned to the predecessor involved in the transfer. If only a portion of the business was transferred, then the experience attributable to the acquired portion is assigned to the successor.

(b) If the successor is not an employer at the time of the transfer, the following applies:

~~(i) ((For transfers before January 1, 2005:~~

~~(A) Except as provided in (b)(i)(B) of this subsection (2), the successor shall pay contributions at the lowest rate determined under either of the following:~~

~~(I) The contribution rate of the rate class assigned to the predecessor employer at the time of the transfer for the remainder of that rate year. Any experience relating to the assignment of that rate class attributable to the predecessor is transferred to the successor. Beginning with the January 1st following the transfer, the successor's contribution rate shall be based on a combination of the transferred experience of the acquired business and the successor's experience after the transfer; or~~

~~(II) The contribution rate equal to the average industry rate as determined by the commissioner, but not less than one percent, and continuing until the successor qualifies for a different rate in its own right. Assignment of employers by the commissioner to industrial classification, for purposes of this subsection, must be in accordance with established classification practices found in the North American industry classification system issued by the federal office of management and budget to the fourth digit provided in the North American industry classification system.~~

~~(B) If the successor simultaneously acquires the business or a portion of the business of two or more employers in different rate classes, its rate, from the date the transfer occurred until the end of that rate year and until it qualifies in its own right for a new rate, shall be the rate of the highest rate class applicable at the time of the acquisition to any predecessor employer who is a party to the acquisition, but not less than one percent.~~

~~(ii) For transfers on or after January 1, 2005:~~

~~(A))~~ Except as provided in (b)(ii)((B)) and ((C)) (iii) of this subsection (2), the successor shall pay contributions:

~~((H))~~ (A) At the contribution rate assigned to the predecessor employer at the time of the transfer for the remainder of that rate year. Any experience attributable to the predecessor relating to the assignment of the predecessor's rate class is transferred to the successor.

~~((H))~~ (B) Beginning January 1st following the transfer, the successor's contribution rate for each rate year shall be based on an array calculation factor rate that is a combination of the following: The successor's experience with payrolls and benefits; and any experience assigned to the predecessor involved in the transfer. If only a portion of the business was transferred, then the experience attributable to the acquired portion is assigned to the successor if qualified under RCW 50.29.010 by including the transferred experience. If not qualified under RCW 50.29.010, the contribution rate shall equal the sum of the rates determined by the commissioner under RCW 50.29.025 (1)(d)~~((ii) or (2)(d))~~ and 50.29.041, if applicable, and continuing until the successor qualifies for a different rate, including the transferred experience.

~~((B))~~ (i) If there is a substantial continuity of ownership, control, or management by the successor of the business of the predecessor, the successor shall pay contributions at the contribution rate determined for the predecessor employer at the time of the transfer for the remainder of that rate year. Any experience attributable to the predecessor relating to the assignment of the predecessor's rate class is transferred to the successor. Beginning January 1st following the transfer, the successor's array calculation factor rate shall be based on a combination of the transferred experience of the acquired business and the successor's experience after the transfer.

~~((C))~~ (ii) If the successor simultaneously acquires the business or a portion of the business of two or more employers with different contribution rates, the successor's rate, from the date the transfer occurred until the end of that rate year and until it qualifies in its own right for a new rate, shall be the sum of the rates determined by the commissioner under RCW 50.29.025 (1) (a) and (b) ~~((or (2) (a) and (b)))~~ and 50.29.041, applicable at the time of the acquisition, to the predecessor employer who, among the parties to the acquisition, had the largest total payroll in the completed calendar quarter immediately preceding the date of transfer, but not less than the sum of the rates determined by the commissioner under RCW 50.29.025 (1)(d)~~((ii) or (2)(d))~~ and 50.29.041, if applicable.

(c) With respect to predecessor employers:

(i) The contribution rate on any payroll retained by a predecessor employer shall remain unchanged for the remainder of the rate year in which the transfer occurs.

(ii) In all cases, beginning January 1st following the transfer, the predecessor's contribution rate or the predecessor's array calculation factor for each rate year shall be based on its experience with payrolls and benefits as of the regular computation date for that rate year excluding the experience of the transferred business or transferred portion of business as that experience has transferred to the successor: PROVIDED, That if all of the predecessor's business is transferred to a successor or successors, the predecessor shall not be a qualified employer until it satisfies the requirements of a "qualified employer" as set forth in RCW 50.29.010.

(3) A predecessor-successor relationship does not exist for purposes of subsection (2) of this section when a significant purpose of the transfer of a business or its operating assets is for the employer to move or expand an existing business, or for an employer to establish a substantially similar business under common ownership, management, and control. However, if an employer

transfers its business to another employer, and both employers are at the time of transfer under substantially common ownership, management, or control, then the unemployment experience attributable to the transferred business shall also be transferred to, and combined with the unemployment experience attributable to, the employer to whom such business is so transferred as specified in subsection (2)(a) of this section.

(4) For purposes of this section, "transfer of a business" means the same as RCW 50.29.063(4)(c).

Sec. 21. RCW 50.29.063 and 2010 c 25 s 3 are each amended to read as follows:

(1) If it is found that a significant purpose of the transfer of a business was to obtain a reduced array calculation factor rate, then the following applies:

(a) If the successor was an employer at the time of the transfer, then the experience rating accounts of the employers involved shall be combined into a single account and the employers assigned the higher of the predecessor or successor array calculation factor rate to take effect as of the date of the transfer.

(b) If the successor was not an employer at the time of the transfer, then the experience rating account of the acquired business must not be transferred and, instead, the sum of the rate determined by the commissioner under RCW 50.29.025 (1)(d)~~((ii) or (2)(d))~~ and 50.29.041, if applicable, shall be assigned.

(2) If any part of a delinquency for which an assessment is made under this title is due to an intent to knowingly evade the successorship provisions of RCW 50.29.062 and this section, then with respect to the employer, and to any business found to be knowingly promoting the evasion of such provisions:

(a) The commissioner shall, for the rate year in which the commissioner makes the determination under this subsection and for each of the three consecutive rate years following that rate year, assign to the employer or business the total rate, which is the sum of the recalculated array calculation factor rate and a civil penalty assessment rate, calculated as follows:

(i) Recalculate the array calculation factor rate as the array calculation factor rate that should have applied to the employer or business under RCW 50.29.025 and 50.29.062; and

(ii) Calculate a civil penalty assessment rate in an amount that, when added to the array calculation factor rate determined under (a)(i) of this subsection for the applicable rate year, results in a total rate equal to the maximum array calculation factor rate under RCW 50.29.025 plus two percent, which total rate is not limited by any maximum array calculation factor rate established in RCW 50.29.025 (1)(b)(ii) ~~((or (2)(b)(ii))~~);

(b) The employer or business may be prosecuted under the penalties prescribed in RCW 50.36.020; and

(c) The employer or business must pay for the employment security department's reasonable expenses of auditing the employer's or business's books and collecting the civil penalty assessment.

(3) If the person knowingly evading the successorship provisions, or knowingly attempting to evade these provisions, or knowingly promoting the evasion of these provisions, is not an employer, the person is subject to a civil penalty assessment of five thousand dollars per occurrence. In addition, the person is subject to the penalties prescribed in RCW 50.36.020 as if the person were an employer. The person must also pay for the employment security

department's reasonable expenses of auditing his or her books and collecting the civil penalty assessment.

(4) For purposes of this section:

(a) "Knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved and includes, but is not limited to, intent to evade, misrepresentation, or willful nondisclosure.

(b) "Person" means and includes an individual, a trust, estate, partnership, association, company, or corporation.

(c) "Transfer of a business" includes the transfer or acquisition of substantially all or a portion of the operating assets, which may include the employer's workforce.

(5) Any decision to assess a penalty under this section shall be made by the chief administrative officer of the tax branch or his or her designee.

(6) Nothing in this section shall be construed to deny an employer the right to appeal the assessment of a penalty in the manner provided in RCW 50.32.030.

(7) The commissioner shall engage in prevention, detection, and collection activities related to evasion of the successorship provisions of RCW 50.29.062 and this section, and establish procedures to enforce this section.

Sec. 22. RCW 50.44.060 and 2010 c 8 s 13043 are each amended to read as follows:

Benefits paid to employees of "nonprofit organizations" shall be financed in accordance with the provisions of this section. For the purpose of this section and RCW 50.44.070, the term "nonprofit organization" is limited to those organizations described in RCW 50.44.010, and joint accounts composed exclusively of such organizations.

(1) Any nonprofit organization which is, or becomes subject to this title (~~on or after January 1, 1972~~), shall pay contributions under the provisions of RCW 50.24.010 and chapter 50.29 RCW, unless it elects, in accordance with this subsection, to pay to the commissioner for the unemployment compensation fund an amount equal to the full amount of regular and additional benefits and one-half of the amount of extended benefits paid to individuals for weeks of unemployment that are based upon wages paid or payable during the effective period of such election to the extent that such payments are attributable to service in the employ of such nonprofit organization.

(a) Any nonprofit organization which becomes subject to this title (~~after January 1, 1972~~) may elect to become liable for payments in lieu of contributions for a period of not less than twelve months beginning with the date on which such subjectivity begins by filing a written notice of its election with the commissioner not later than thirty days immediately following the date of the determination of such subjectivity.

(b) Any nonprofit organization which makes an election in accordance with (a) of this subsection will continue to be liable for payments in lieu of contributions until it files with the commissioner a written notice terminating its election not later than thirty days prior to the beginning of the taxable year for which such termination shall first be effective.

(c) Any nonprofit organization which has been paying contributions under this title (~~for a period subsequent to January 1, 1972~~) may change to a reimbursable basis by filing with the commissioner not later than thirty days

prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

(d) The commissioner may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive (~~but not any earlier than with respect to benefits paid after December 31, 1969~~).

(e) The commissioner, in accordance with such regulations as the commissioner may prescribe, shall notify each nonprofit organization of any determination which the commissioner may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Any nonprofit organization subject to such determination and dissatisfied with such determination may file a request for review and redetermination with the commissioner within thirty days of the mailing of the determination to the organization. Should such request for review and redetermination be denied, the organization may, within ten days of the mailing of such notice of denial, file with the appeal tribunal a petition for hearing which shall be heard in the same manner as a petition for denial of refund. The appellate procedure prescribed by this title for further appeal shall apply to all denials of review and redetermination under this paragraph.

(2) Payments in lieu of contributions shall be made in accordance with the provisions of this section including either (a) or (b) of this subsection.

(a) At the end of each calendar quarter, the commissioner shall bill each nonprofit organization or group of such organizations which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular and additional benefits plus one-half of the amount of extended benefits paid during such quarter that is attributable to service in the employ of such organization.

(b)(i) Each nonprofit organization that has elected payments in lieu of contributions may request permission to make such payments as provided in this paragraph. Such method of payment shall become effective upon approval by the commissioner.

(ii) At the end of each calendar quarter, or at the end of such other period as determined by the commissioner, the commissioner shall bill each nonprofit organization for an amount representing one of the following:

(A) The percentage of its total payroll for the immediately preceding calendar year as the commissioner shall determine. Such determination shall be based each year on the average benefit costs attributable to service in the employ of nonprofit organizations during the preceding calendar year.

(B) For any organization which did not pay wages throughout the four calendar quarters of the preceding calendar year, such percentage of its payroll during such year as the commissioner shall determine.

(iii) At the end of each taxable year, the commissioner may modify the quarterly percentage of payroll thereafter payable by the nonprofit organization in order to minimize excess or insufficient payments.

(iv) At the end of each taxable year, the commissioner shall determine whether the total of payments for such year made by a nonprofit organization is less than, or in excess of, the total amount of regular and additional benefits plus one-half of the amount of extended benefits paid to individuals during such

taxable year based on wages attributable to service in the employ of such organization. Each nonprofit organization whose total payments for such year are less than the amount so determined shall be liable for payment of the unpaid balance to the fund in accordance with (c) of this subsection. If the total payments exceed the amount so determined for the taxable year, all of the excess payments will be retained in the fund as part of the payments which may be required for the next taxable year, or a part of the excess may, at the discretion of the commissioner, be refunded from the fund or retained in the fund as part of the payments which may be required for the next taxable year.

(c) Payment of any bill rendered under (a) or (b) of this subsection shall be made not later than thirty days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, and if not paid within such thirty days, the reimbursement payments itemized in the bill shall be deemed to be delinquent and the whole or part thereof remaining unpaid shall bear interest and penalties from and after the end of such thirty days at the rate and in the manner set forth in RCW 50.12.220 and 50.24.040.

(d) Payments made by any nonprofit organization under the provisions of this section shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization. Any deduction in violation of the provisions of this paragraph shall be unlawful.

(e)(i) Benefits paid during the one week waiting period when the one week waiting period is paid or reimbursed by the federal government shall not be billed.

(ii) In the event the one week waiting period is partially paid or partially reimbursed by the federal government, the department may, by rule, elect to not bill, in full or in part, benefits paid during the one week waiting period.

(3) Each employer that is liable for payments in lieu of contributions shall pay to the commissioner for the fund the total amount of regular and additional benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of (a) and (b) of this subsection.

(a) If benefits paid to an individual are based on wages paid by one or more employers that are liable for payments in lieu of contributions and on wages paid by one or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his or her base-period employers.

(b) If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his or her base-period employers.

Sec. 23. RCW 50.60.020 and 2013 c 79 s 1 are each amended to read as follows:

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

(1) "Affected employee" means a specified employee, hired on a permanent basis, to which an approved shared work compensation plan applies.

(2) "Employers' association" means an association which is a party to a collective bargaining agreement under which there is a shared work compensation plan.

(3) "Shared work benefits" means the benefits payable to an affected employee under an approved shared work compensation plan as distinguished from the benefits otherwise payable under this title.

(4) "Shared work compensation plan" means a plan of an employer, or of an employers' association, under which there is a reduction in the number of hours worked by employees rather than layoffs.

(5) "Shared work employer" means an employer, who has at least two employees, and at least ~~((one employee is))~~ two employees are covered by a shared work compensation plan.

(6) "Unemployment compensation" means the benefits payable under this title other than shared work benefits and includes any amounts payable pursuant to an agreement under federal law providing for compensation, assistance, or allowances with respect to unemployment.

(7) "Usual weekly hours of work" means the regular number of hours of work before the hours were reduced, not to exceed forty hours and not including overtime.

Sec. 24. RCW 50.60.110 and 2013 c 79 s 4 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, shared work benefits shall be charged to employers' experience rating accounts in the same manner as other benefits under this title are charged. Employers liable for payments in lieu of contributions shall have shared work benefits attributed to their accounts in the same manner as other benefits under this title are attributed.

(2) ~~((For weeks of benefits paid between July 1, 2012, and June 28, 2015, any))~~ Any amount of shared work benefits that is paid or reimbursed by the federal government is not charged to experience rating accounts of employers or to employers who are liable for payments in lieu of contributions. The employment security department shall remove charges for any amount of shared work benefits that is paid or reimbursed by the federal government ~~((between July 1, 2012, and the week prior to July 28, 2013))~~.

NEW SECTION. Sec. 25. A new section is added to chapter 50.60 RCW to read as follows:

Affected employees may participate, as appropriate, in training, including employer-sponsored training or training funded under the workforce innovation and opportunity act, to enhance job skills if such program has been approved by the employment security department.

NEW SECTION. Sec. 26. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal

unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

NEW SECTION. Sec. 27. The following acts or parts of acts are each repealed:

(1) RCW 50.20.1201 (Amount of benefits—Applicable May 3, 2009, for claims effective before, on, or after May 3, 2009, through January 2, 2010) and 2009 c 3 s 2; and

(2) RCW 50.20.1202 (Additional temporary benefit increase) and 2011 c 4 s 1.

NEW SECTION. Sec. 28. 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 January 27, 2021.

Passed by the House January 29, 2021.

Approved by the Governor February 8, 2021.

Filed in Office of Secretary of State February 8, 2021.

CHAPTER 3

[Engrossed Substitute House Bill 1368]

COVID-19--FEDERAL FUNDING

AN ACT Relating to responding to the COVID-19 pandemic through state actions supported by federal funding; adding a new section to chapter 43.70 RCW; creating new sections; making appropriations; and declaring an emergency.

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

NEW SECTION. Sec. 1. Appropriations in this act are for the fiscal biennium ending June 30, 2021.

NEW SECTION. Sec. 2. The definitions in this section apply throughout this act unless the context clearly requires otherwise.

(1) "CRF" means funds attributable to the coronavirus relief fund created by section 5001, the coronavirus aid, relief, and economic security act, P.L. 116-136, division A.

(2) "CRRSA" means funds attributable to the coronavirus response and relief supplemental appropriations act, P.L. 116-260, division M.

(3) "CRRSA/ESSER" means funds attributable to the elementary and secondary school emergency relief fund, as modified by the coronavirus response and relief supplemental appropriations act, P.L. 116-260, division M.

(4) "FMAP" means federal medical assistance percentage, including funds attributable to the temporary increase of medicaid FMAP by section 6008, the families first coronavirus response act, P.L. 116-127, division F.

NEW SECTION. Sec. 3. FOR THE DEPARTMENT OF COMMERCE—RENTAL ASSISTANCE AND HOUSING

General Fund—Federal Appropriation \$365,000,000

TOTAL APPROPRIATION \$365,000,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$325,000,000 of the general fund—federal appropriation (CRRSA) is provided solely for the department to administer an emergency rental and utility assistance program pursuant to P.L. 116-260, the federal consolidated appropriations act. The department shall distribute funding in the form of grants to local housing providers. In making distributions, the department must consider the number of unemployed persons and renters in each jurisdiction served by the provider as well as account for any funding that jurisdiction, including cities within each county, received directly from the federal government. A provider may use up to 9.5 percent of their grant award for administrative costs and the remainder must be used for financial assistance as defined in P.L. 116-260. The department may retain up to 0.5 percent of the funding provided in this subsection to administer the program.

(2)(a) \$30,000,000 of the general fund—federal appropriation (CRF) is provided solely for the department to administer an eviction rental assistance program. The department shall distribute funding in the form of grants to local housing providers. In making distributions, the department must consider the number of unemployed persons and renters in each jurisdiction served by the provider. To be eligible for the program, households must, at a minimum, have an income at or below 80 percent of the area median income and must have a missed or partially paid rent payment. Rental payments made through the program will be provided directly to landlords. The department may establish additional eligibility criteria to target these resources to households most likely to become homeless if they do not receive rental assistance.

(b) Of the amounts provided in this subsection, \$16,000,000 of the general fund—federal appropriation (CRF) is provided solely for local housing providers to subgrant with community organizations that serve historically disadvantaged populations within their jurisdiction. Subgrants may be used for program outreach and assisting community members in applying for assistance under this subsection and subsection (1) of this section.

(3) \$4,000,000 of the general fund—federal appropriation (CRF) is provided solely for the department to assist homeowners at risk of foreclosure pursuant to chapter 61.24 RCW. Funding must be used for activities to prevent mortgage or tax lien foreclosures, housing counselors, foreclosure prevention hotlines, low-income legal services, mediation, and other activities that promote homeownership. The department may contract with other state agencies to carry out these activities.

(4) \$1,500,000 of the general fund—federal appropriation (CRF) is provided solely for a contract with resolution Washington for alternative dispute resolution centers and dispute resolution programs to provide citizens with low-cost resolution as an alternative to litigation. This funding must be prioritized for resolution services relating to evictions.

(5) \$1,500,000 of the general fund—federal appropriation (CRF) is provided solely for the department to contract with the office of civil legal aid to provide services relating to evictions, housing, and utilities.

(6) \$1,000,000 of the general fund—federal appropriation (CRF) is provided solely for the department to contract with the office of the attorney general for legal work relating to the eviction moratorium extended in the governor's proclamation 20-19.5.

(7)(a) \$2,000,000 of the general fund—federal appropriation (CRF) is provided solely for a program to provide grants to eligible landlords who have encountered a significant financial hardship due to loss of rental income from elective nonpayor tenants during the state's eviction moratorium pursuant to the governor's proclamation.

(b) To be eligible for a grant under this subsection, a landlord must:

(i) Apply for a grant;

(ii) Be the sole investor in the property from which they are seeking rental arrears;

(iii) Be the owner of no more than four dwelling units from which they receive rental payments;

(iv) Not contract with a property manager or property management company for duties or activities related to the tenancy or dwelling unit; and

(v) Have an elective nonpayor tenant who is in arrears in rent or utilities or both.

(c) Eligible landlords may receive a grant of up to 80 percent of the total amount of rent in arrears. The department must prioritize landlords who have an income at or below 100 percent of the area median income and who demonstrate a loss of rental income, to the extent that funds are available.

(d) The department may inspect the property and the landlord's records related to an application under the program, including the use of a third-party inspector as needed to investigate fraud, to assist in making its application review, and to determine eligibility.

(e) A landlord who receives a grant under this section is prohibited from:

(i) Taking any legal action against the tenant for damages attributable to the same tenancy; or

(ii) Pursuing collection, or authorizing another entity to pursue collection on the landlord's behalf, against the tenant for damages attributable to the same tenancy.

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

(i) "Dwelling unit" has the meaning defined in RCW 59.18.030.

(ii) "Elective nonpayor" means a tenant who has been determined to not be eligible for the federal or state emergency rental assistance program or has not applied for the federal or state emergency rental assistance program.

(iii) "Landlord" has the meaning defined in RCW 59.18.030.

(iv) "Owner" has the meaning defined in RCW 59.18.030.

(v) "Rent" has the meaning defined in RCW 59.18.030.

(vi) "Tenant" has the meaning defined in RCW 59.18.030.

NEW SECTION. Sec. 4. FOR THE DEPARTMENT OF COMMERCE—WORKING WASHINGTON GRANTS

General Fund—Federal Appropriation	\$240,000,000
TOTAL APPROPRIATION	\$240,000,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$240,000,000 of the general fund—federal appropriation (CRF) is provided solely for the department of commerce to provide additional grants to small businesses through the department's working Washington grant program as modified by this section.

(2) Of the amount provided in this section, \$150,000,000 is provided solely to assist businesses maintain their operations. To be eligible for a grant under this subsection, the business must:

(a) Apply for or have applied for the grant;

(b) Have reported annual gross receipts of \$5,000,000 or less to the department of revenue for calendar year 2019;

(c) Have expenses that are necessary to continue business operations and the expense is not a federal, state, or local tax, fee, license, or other government revenue;

(d) Self-attest that the expense is not funded by any other government or private entity;

(e) Have experienced a reduction in business income or activity related to COVID-19 or state or local actions in response to COVID-19; and

(f) Agree to operate in accordance with the requirements of applicable federal, state, and local public health guidance and directives.

(3) Of the amount provided in this section, \$90,000,000 is provided solely to assist the reopening of businesses that temporarily totally closed their operations. To be eligible for a grant under this subsection, the business must:

(a) Apply for the grant;

(b) Have reported annual gross receipts of \$5,000,000 or less to the department of revenue for calendar year 2019;

(c) Demonstrate the business was actively engaged in business, and as a result of the governor's proclamations 20-25.8, issued on November 15, 2020, through 20-25.12 ("stay safe-stay healthy"), temporarily totally closed operations. Demonstration of active engagement in business can be given through but is not limited to taxable activity reported to the department of revenue. The department may use other methods to determine if this criterion has been met;

(d) Have expenses that are necessary to reopen business operations and the expense is not a federal, state, or local tax, fee, license, or other government revenue;

(e) Self-attest that the expense is not funded by any other government or private entity; and

(f) Agree to operate in accordance with the requirements of applicable federal, state, and local public health guidance and directives.

(4) Grant awards are subject to the availability of amounts appropriated in this section. The department must conduct outreach to underrepresented and unserved communities observed from prior rounds of awards. The department must ensure equitable distributions of grant funding, including considerations for geographic location and businesses owned by members of historically disadvantaged communities.

(5)(a) Eligible businesses may receive up to a \$75,000 grant.

(b) If a business received one or more working Washington small business grants, the grant awarded under this section must be reduced to reflect the amounts received from previous working Washington small business grants.

(6) For purposes of this section, reopening costs include, but are not limited to:

- (a) Upgrading physical work places to adhere to new safety or sanitation standards;
- (b) Procuring required personal protective supplies for employees and business patrons and clients;
- (c) Updating business plans;
- (d) Employee costs including payroll, training, and onboarding;
- (e) Rent, lease, mortgage, insurance, and utilities payments; and
- (f) Securing inventory, supplies, and services for operations.

(7) Nonprofit organizations may be eligible to receive funding under subsection (2) or (3) of this section if they have a primary business activity that has been impacted as described in subsection (2)(e) or (3)(c) of this section.

(8) The department is authorized to shift funding among the purposes in subsections (2) and (3) of this section based on over or underutilization of the different types of grants.

NEW SECTION. Sec. 5. Notwithstanding the provisions of section 127(85), chapter 357, Laws of 2020, it is the intent of the legislature that grant funding for eligible sheltering costs be made available to applicants who have maintained or decreased shelter capacity due to social distancing or other health and safety measures taken in response to the COVID-19 pandemic.

NEW SECTION. Sec. 6. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—DEVELOPMENTAL DISABILITIES PROGRAM—COMMUNITY SERVICES

General Fund—Federal Appropriation	\$24,528,000
TOTAL APPROPRIATION	\$24,528,000

The appropriation in this section is subject to the following conditions and limitations: \$24,528,000 of the general fund—federal appropriation (FMAP), along with currently appropriated state funds, is provided solely to continue the COVID-19 rate enhancements offered to contracted service providers in January-March 2021 through the April-June 2021 quarter. Expenditure of the amounts provided in this section is contingent upon execution of an appropriate memorandum of understanding between the office of financial management and the exclusive bargaining representatives.

NEW SECTION. Sec. 7. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—AGING AND ADULT SERVICES PROGRAM

General Fund—Federal Appropriation	\$45,434,000
TOTAL APPROPRIATION	\$45,434,000

The appropriation in this section is subject to the following conditions and limitations: \$45,434,000 of the general fund—federal appropriation (FMAP), along with currently appropriated state funds, is provided solely to continue the COVID-19 rate enhancements offered to contracted service providers in January-March 2021 through the April-June 2021 quarter. Expenditure of the amounts provided in this section is contingent upon execution of an appropriate memorandum of understanding between the office of financial management and the exclusive bargaining representatives.

NEW SECTION. Sec. 8. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—ECONOMIC SERVICES ADMINISTRATION

General Fund—Federal Appropriation	\$90,700,000
TOTAL APPROPRIATION	\$90,700,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$12,000,000 of the general fund—federal appropriation (CRF) is provided solely for the disaster cash assistance program, allowing both individuals without children and families without children to receive cash disaster benefits during the coronavirus pandemic pursuant to House Bill No. 1151 (providing public assistance to households in need). If the bill is not enacted by April 1, 2021, the amount provided in this section shall lapse.

(2) \$4,700,000 of the general fund—federal appropriation (CRF) is provided solely for the department to increase the benefit under the food assistance program to maintain parity with benefits offered under the supplemental nutritional assistance program for the period of January through March 2021.

(3) \$9,000,000 of the general fund—federal appropriation (CRF) is provided solely for the increased caseload in the temporary assistance for needy families program as a result of the suspension of the 60-month time limit and suspension of the imposition of sanctions for nonparticipation in WorkFirst activities.

(4) \$65,000,000 of the general fund—federal appropriation (CRF) is provided solely for continuing the Washington immigrant relief fund authorized under the authority provided due to the declaration of emergency due to the COVID-19 pandemic as modified by this section. At least 95 percent of the amount provided in this subsection is provided solely for grants to eligible persons.

(a) A person is eligible for a grant who:

(i) Lives in Washington state;

(ii) Is at least 18 years of age;

(iii) Has been significantly affected by the coronavirus pandemic, such as loss of employment or significant reduction in work hours, contracting the coronavirus, or caring for a family member who contracted the coronavirus;

(iv) Is not eligible to receive federal economic impact (stimulus) payments or unemployment insurance benefits due to their immigration status; and

(v) Has an income at or below 250 percent of federal poverty level.

(b) The department may not deny a grant to a person on the basis that another adult in the household is eligible for federal economic impact (stimulus) payments or unemployment insurance benefits or that the person previously received a grant under the program.

(c) The department must prioritize grants to persons who are most in need of financial assistance using factors that include, but are not limited to, being the primary or sole income earner of household, experiencing housing instability, having contracted or being at high risk of contracting the coronavirus, and having been approved for a previous grant under the program but not having received one due to lack of funding.

(d) The department may contract with one or more nonprofit organizations to administer the program. If the department engages in a competitive contracting process for administration of the program, experience in administering similar programs must be given weight in the selection process to expedite the delivery of benefits to eligible applicants. The contract may require the performance of outreach activities to communities that may have been underrepresented in earlier grant awards.

NEW SECTION. Sec. 9. FOR THE HEALTH CARE AUTHORITY—MEDICAL ASSISTANCE

General Fund—Federal Appropriation	\$6,000,000
TOTAL APPROPRIATION	\$6,000,000

The appropriation in this section is subject to the following conditions and limitations:

(1) The entire general fund—federal appropriation (CRF) is provided solely for the authority to distribute grants to rural health clinics, federally qualified health centers, and free clinics to provide health care services for uninsured and underinsured patients, regardless of immigration status, for the treatment of any health condition that is further complicated by the past or present treatment of the illness caused by the severe acute respiratory syndrome coronavirus 2 (COVID-19).

(2) The authority must distribute the amounts appropriated in this section as follows:

(a) \$3,841,000 of the general fund—federal appropriation (CRF) must be distributed to rural health clinics and federally qualified health centers. Amounts provided in this subsection must be used for the direct care of uninsured and underinsured patients under 200 percent of the federal poverty level for:

(i) The testing, treatment, or assessment of the severe acute respiratory syndrome coronavirus 2 (COVID-19), including facility and provider fees; and

(ii) The treatment of chronic conditions worsened by the severe acute respiratory syndrome coronavirus 2 (COVID-19), including but not limited to the cost of laboratory, prescription medications, specialty care, and other services including behavioral health services, therapies, radiology, and other diagnostics.

(b) \$1,659,000 of the general fund—federal appropriation (CRF) must be distributed to free clinics that provide medical care for patients with past or present diagnoses of the illness caused by the severe acute respiratory syndrome coronavirus 2 (COVID-19). The amounts provided in this subsection may be used for general operating costs, including staffing, supplies, and equipment purchases. As used in this section, "free clinics" mean private, nonprofit, community, or faith-based organizations that provide medical and mental health services at little or no cost to uninsured and underinsured people through the use of volunteer health professionals, community volunteers, and partnerships with other health providers.

(c) \$500,000 of the general fund—federal appropriation (CRF) must be distributed to rural health clinics and federally qualified health centers that can demonstrate that uninsured patients accounted for 14 percent or more of their total patient count in calendar year 2019. Amounts provided in this subsection

(2)(c) must be used for the same purposes as those outlined in (a) of this subsection.

(3) Clinics may not bill clients for any portion of the services provided that involve the use of amounts appropriated in this section.

(4) Clinics may not use the amounts provided in this section for services for which other funds are available, such as federal funds from the families first coronavirus response act.

(5) The authority may retain no more than three percent of the amounts provided in this section for administrative costs.

NEW SECTION. Sec. 10. FOR THE DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES—EARLY LEARNING PROGRAM

General Fund—Federal Appropriation	\$50,000,000
TOTAL APPROPRIATION	\$50,000,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$50,000,000 of the general fund—federal appropriation (CRRSA) is provided solely for the department to provide financial support to child care providers. The department must prioritize providers located in child care deserts, or communities of concern, or both, and must prioritize providers in order to support racial equity across the state. Of the amount provided in this section:

(a) \$28,800,000 of the general fund—federal appropriation (CRRSA) is provided solely for grants to licensed providers who serve children ages birth to 13 and who accept state subsidies. Base grant amounts are \$6,500, with an additional \$100 provided for each licensed slot over 65 slots.

(b) \$6,000,000 of the general fund—federal appropriation (CRRSA) is provided solely for grants to licensed providers who serve children ages birth to 13 and who do not accept subsidies. Grant amounts are \$6,500.

(c) \$10,600,000 of the general fund—federal appropriation (CRRSA) is provided solely for the department to pay providers at the regional preschool rate for school-age children through April 2021.

(d) \$4,000,000 of the general fund—federal appropriation (CRRSA) is provided solely for the department to incentivize providers to take new subsidized slots.

(e) \$600,000 of the general fund—federal appropriation is provided solely for incentives of \$250 to family, friends, and neighbor providers.

(2) The department is authorized to shift funding among the purposes in subsection (1)(a) through (e) of this section based on over or underutilization of the different types of grants.

NEW SECTION. Sec. 11. FOR THE DEPARTMENT OF AGRICULTURE—FOOD ASSISTANCE PROGRAM

General Fund—Federal Appropriation	\$26,392,000
TOTAL APPROPRIATION	\$26,392,000

The appropriation in this section is subject to the following conditions and limitations: \$18,000,000 of the general fund—federal appropriation (CRF) and \$8,392,000 of the general fund—federal appropriation (CRRSA) are provided solely for the department to provide block grants to hunger relief organizations to achieve food security within the state such as the purchase of food and

supplies; investment in storage capacity; management of operations, facilities, employees, and volunteers; conducting social service outreach to food recipients; or conducting any other activity that is necessary to help achieve food security for the public. Providers under this section may not refuse service to any person based on a protected class under chapter 49.60 RCW. Of the amounts provided in this section (CRRSA), a maximum of \$1,689,000 may be used by the department for its administrative costs.

NEW SECTION. Sec. 12. FOR THE OFFICE OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION—ELEMENTARY AND SECONDARY SCHOOL EMERGENCY RELIEF FUND

General Fund—Federal Appropriation	\$668,130,000
TOTAL APPROPRIATION	\$668,130,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$668,130,000 of the general fund—federal appropriation (CRRSA/ESSER) is provided solely for allocations from federal funding in response to the COVID-19 pandemic as authorized in section 313, the coronavirus response and relief supplemental appropriations act, P.L. 116-260, division M. The superintendent of public instruction must allocate the entire amount as subgrants to local education agencies consistent with timing and provisions of section 313, P.L. 116-260, division M.

(2)(a) By March 1, 2021, school districts, charter schools, and state-tribal education compact schools must review and update school reopening plans adopted for the 2020-21 school year and submit the updated plans to the superintendent of public instruction.

(b) The superintendent of public instruction shall develop the template for the plan update that districts must use. The update must include at a minimum:

- (i) A schedule for reopening or expanding in-person instruction during the 2020-21 school year;
- (ii) Which students will receive in-person instruction, by group, by grade, by school; and
- (iii) Plans for balancing in-person and remote instruction in hybrid models, if applicable.

(c) Schools are encouraged to base reopening schedules and decisions on state department of health guidance on COVID-19 activity levels.

(d) The superintendent must report to the appropriate policy and fiscal committees of the legislature on any statutory changes necessary to implement updated reopening plans.

(3)(a) By June 1, 2021, school districts, charter schools, and state-tribal education compact schools must submit an academic and student well-being recovery plan to the superintendent of public instruction to address student needs that are anticipated due to school closures and extended time in remote learning mode due to the COVID-19 pandemic. The superintendent of public instruction shall develop the template for the plan that districts must use. Schools must report progress on implementing the plan in a manner identified by the office of the superintendent of public instruction. The plan must, at a minimum, address learning loss among students, including student groups identified in the

Washington state improvement framework, as well as students experiencing homelessness and students in foster care.

(b) Additional plan details must include:

(i) Identification of specific diagnostic assessment tools by grade level, identification of student learning and well-being gaps, and focusing of additional time and supports on students most impacted;

(ii) Providing additional instruction, student well-being support, and extracurricular opportunities based on an evaluation of student needs; and

(iii) Other plan elements as required by the office of the superintendent of public instruction. The office of the superintendent of public instruction may add elements based on evidence of positive learning and well-being outcomes. These elements can include, but are not limited to: Balanced calendars, additional school days, additional instruction time, or any combination of these elements.

(c) Nothing in the plan constitutes an independent source of legal authority except as permitted by statute, and the plan does not supersede state statutes, gubernatorial orders, or the statutory authority of state and county health departments.

NEW SECTION. Sec. 13. FOR THE OFFICE OF THE SUPERINTENDENT OF PUBLIC INSTRUCTION—GOVERNOR EMERGENCY EDUCATION RELIEF FUND

General Fund—Federal Appropriation (CRRSA-GEER)	\$46,263,000
TOTAL APPROPRIATION	\$46,263,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation in this section is provided solely for allocations from the federal funding to provide emergency assistance to nonpublic schools, as authorized in section 312(d), the coronavirus response and relief supplemental appropriations act, P.L. 116-260, division M.

NEW SECTION. Sec. 14. FOR THE STUDENT ACHIEVEMENT COUNCIL—OFFICE OF STUDENT FINANCIAL ASSISTANCE

General Fund—Federal Appropriation	\$5,000,000
TOTAL APPROPRIATION	\$5,000,000

The appropriation in this section is subject to the following conditions and limitations:

(1) \$5,000,000 of the general fund—federal appropriation (CRF) is provided solely for undocumented student relief grants authorized under the authority provided due to the declaration of emergency due to the COVID-19 pandemic as modified by this section.

(2) Students are eligible for the grant in this section if they meet the definition of "eligible student" in RCW 28B.96.010. Grants will be awarded on a first-come, first-serve basis subject to availability of amounts provided in this section.

(3) The grant award amounts must be comparable to the CARES/HEER student emergency financial aid grant amounts provided by institutions of higher education.

(4) For purposes of this section, "CARES/HEER" means funds attributable to the higher education emergency relief fund created by section 18004, the coronavirus aid, relief, and economic security act, P.L. 116-120, division M.

(5) The office must disburse the grant funds to institutions of higher education in Washington as defined in RCW 28B.92.030.

(6) The grants awarded to eligible students under this section must not be included in any financial need calculation when awarding state financial aid.

NEW SECTION. Sec. 15. FOR THE OFFICE OF FINANCIAL MANAGEMENT—COVID-19 PUBLIC HEALTH RESPONSE ACCOUNT—RESPONSE

General Fund—Federal Appropriation	\$438,000,000
TOTAL APPROPRIATION	\$438,000,000

The appropriation in this section is subject to the following conditions and limitations: The entire general fund—federal appropriation (CRRSA) is provided solely for expenditure into the COVID-19 public health response account, from which the department of health may make expenditures from this sum solely for the statewide response to the COVID-19 pandemic, including diagnostic testing, case investigation and contract tracing, care coordination, outbreak response, data collection and analysis, and other activities required to support the response.

NEW SECTION. Sec. 16. FOR THE OFFICE OF FINANCIAL MANAGEMENT—COVID-19 PUBLIC HEALTH RESPONSE ACCOUNT—VACCINES

General Fund—Federal Appropriation	\$68,000,000
TOTAL APPROPRIATION	\$68,000,000

The appropriation in this section is subject to the following conditions and limitations: The entire general fund—federal appropriation (CRRSA) is provided solely for expenditure into the COVID-19 public health response account, from which the department of health may make expenditures from this sum solely to plan for, prepare, and deploy the COVID-19 vaccine.

NEW SECTION. Sec. 17. FOR THE OFFICE OF FINANCIAL MANAGEMENT—COVID-19 PUBLIC HEALTH RESPONSE ACCOUNT—EPIDEMIOLOGY AND LABORATORY CAPACITY

General Fund—Federal Appropriation	\$100,000,000
TOTAL APPROPRIATION	\$100,000,000

The appropriation in this section is subject to the following conditions and limitations: The entire general fund—federal appropriation is provided solely for expenditure into the COVID-19 public health response account, from which the department of health may make expenditures from this sum solely for its response to the COVID-19 pandemic, which includes diagnostic testing, case investigation and contract tracing, care coordination, outbreak response, data collection and analysis, and other activities required to support the response.

NEW SECTION. Sec. 18. FOR THE OFFICE OF FINANCIAL MANAGEMENT—COVID-19 PUBLIC HEALTH RESPONSE ACCOUNT—RESPONSE

General Fund—Federal Appropriation	\$12,000,000
TOTAL APPROPRIATION	\$12,000,000

The appropriation in this section is subject to the following conditions and limitations: The entire general fund—federal appropriation (CRF) is provided

solely for expenditure into the COVID-19 public health response account, from which the department of health may make expenditures from this sum solely for the statewide response to the COVID-19 pandemic.

NEW SECTION. Sec. 19. A new section is added to chapter 43.70 RCW to read as follows:

COVID-19 PUBLIC HEALTH RESPONSE ACCOUNT CREATED.

(1) The COVID-19 public health response account is created in the custody of the state treasurer. The account shall consist of funds appropriated by the legislature and grants received by the department of health for activities in response to the coronavirus pandemic (COVID-19). Only the secretary, or the secretary's designee, may authorize expenditures from the account for costs related to the public health response to COVID-19, subject to any limitations imposed by grant funding deposited into the account. The COVID-19 public health response account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2)(a) The legislature finds that a safe, efficient, and effective delivery of vaccinations is of the utmost importance for restoring societal and economic functions. As we learn more about the virus, the vaccine, and challenges to vaccine allocation and distribution, it is anticipated that the state's COVID-19 vaccination distribution plan will evolve. To that end, the legislature has provided flexibility by funding vaccine expenditure at the discretion of the secretary and without an appropriation. However, to maintain fiscal control and to ensure spending priorities align, the department is required to collaborate and communicate with the chairs and ranking members of the health care and fiscal committees of the legislature and local health jurisdictions in advance of any significant revision of the state's COVID-19 vaccination plan and to provide regular updates on its implementation and spending.

(b) As part of the public health response to COVID-19, the expenditures from the account must be used to effectively administer the vaccine for COVID-19 and conduct testing and contact tracing. The department must ensure that COVID-19 outreach is accessible, culturally and linguistically appropriate, and that it includes community-driven partnerships and strategies.

(c) When making expenditures for administering the vaccine for COVID-19, the department must focus on identifying persons for vaccination, prioritizing hard-to-reach communities, making the vaccine accessible, and providing support to schools for safe reopening.

(d) When making expenditures regarding testing and contact tracing, the department must provide equitable access, prioritize hard-to-reach communities, and provide support and resources to facilitate the safe reopening of schools while minimizing community spread of the virus.

(3) When making expenditures from the account, the department must include an emphasis on public communication regarding the availability and accessibility of the vaccine and testing, and the importance of vaccine and testing availability to the safe reopening of the state.

(4)(a) The department must report to the fiscal and health care committees of the legislature on a monthly basis regarding its COVID-19 response.

(b) To the extent that it is available, the report must include data regarding vaccine distribution, testing, and contact tracing, as follows:

(i) The number of vaccines administered per day, including regional data regarding the location and age groups of persons receiving the vaccine, specifically identifying hard-to-reach communities in which vaccines were administered; and

(ii) The number of tests conducted per week, including data specifically addressing testing conducted in hard-to-reach communities.

(c) The first monthly report is due no later than one month from the effective date of this section. Monthly reports are no longer required upon the department's determination that the remaining balance of the COVID-19 response account is less than \$100,000.

NEW SECTION. Sec. 20. 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. 21. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 22. 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 February 1, 2021.

Passed by the Senate February 10, 2021.

Approved by the Governor February 19, 2021.

Filed in Office of Secretary of State February 19, 2021.

CHAPTER 4

[Substitute House Bill 1095]

EMERGENCY GRANTS--TAX EXEMPTION

AN ACT Relating to the taxation of governmental financial assistance programs addressing the impacts of conditions giving rise to a gubernatorial or presidential emergency proclamation by creating state business and occupation tax and state public utility tax exemptions, a sales and use tax exemption for the receipt of such financial assistance, and clarifying the sales and use tax obligations for goods and services purchased by recipients of such financial assistance; amending RCW 82.04.050; amending 2020 c 80 s 62 (uncodified); adding a new section to chapter 82.04 RCW; adding a new section to chapter 82.16 RCW; adding a new section to chapter 82.08 RCW; creating new sections; repealing 2020 c 80 s 58; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to any person with respect to the value proceeding or accruing from a qualifying grant received on or after February 29, 2020.

(2) For purposes of this section, "qualifying grant" means an amount received, or relief from debt or other legal obligation received, that:

(a) Is received under a government-funded program either directly from a government entity, or through a nongovernmental third-party entity authorized by a government entity to distribute the program funds, or, in the case of relief from debt or other legal obligation, is received from a private entity under circumstances where, in exchange for providing the relief, the private entity receives some form of direct financial benefit from a government entity;

(b) Is provided to address the impacts of conditions giving rise to an official proclamation of a national emergency by the president of the United States or an official proclamation of a state of emergency by the governor of this state; and

(c) Is not an amount received:

(i) Under a contract, including a sole source contract, for the acquisition of specific goods or services, or both, by purchase, lease, or barter, that was solicited and established in accordance with procurement laws or regulations; or

(ii) For manufacturing, extracting, or making sales of products, when the amount received is determined based on the quantity of products manufactured, extracted, or sold. For purposes of this subsection (2)(c)(ii), "products" has the same meaning as in RCW 82.32.023.

(3) For purposes of a grant awarded to address the impacts of conditions giving rise to a national emergency or state of emergency, the exemption under this section applies only if the legislation authorizing the grant or the associated legislative history, public records created by the grantor, or the terms of the underlying grant agreement between the grantor and grantee, clearly indicate that the grant was established to address the impacts of conditions giving rise to a national emergency or state of emergency.

(4) For purposes of this section, "government" means any national, tribal, state, or local government.

NEW SECTION. Sec. 2. A new section is added to chapter 82.16 RCW to read as follows:

(1) This chapter does not apply to any person with respect to the value proceeding or accruing from a qualifying grant received on or after February 29, 2020.

(2) For purposes of this section, "qualifying grant" means an amount received, or relief from debt or other legal obligation received, that:

(a) Is received under a government-funded program either directly from a government entity, or through a nongovernmental third-party entity authorized by a government entity to distribute the program funds, or, in the case of relief from debt or other legal obligation, is received from a private entity under circumstances where, in exchange for providing the relief, the private entity receives some form of direct financial benefit from a government entity;

(b) Is provided to address the impacts of conditions giving rise to an official proclamation of a national emergency by the president of the United States or an official proclamation of a state of emergency by the governor of this state; and

(c) Is not an amount received:

(i) Under a contract, including a sole source contract, for the acquisition of specific goods or services, or both, by purchase, lease, or barter, that was solicited and established in accordance with procurement laws or regulations; or

(ii) When the amount received or accrued during a tax reporting period is determined based on the amount of business actually conducted during that tax reporting period, such as the quantity, volume, or weight of products sold or transported, or the number of passengers transported. For purposes of this subsection (2)(c)(ii), "products" has the same meaning as in RCW 82.32.023 and includes electrical energy, water, natural gas, manufactured gas, and transporting persons or property.

(3) For purposes of a grant awarded to address the impacts of conditions giving rise to a national emergency or state of emergency, the exemption under this section applies only if the legislation authorizing the grant or the associated legislative history, public records created by the grantor, or the terms of the underlying grant agreement between the grantor and grantee, clearly indicate that the grant was established to address the impacts of conditions giving rise to a national emergency or state of emergency.

(4) For purposes of this section, "government" means any national, tribal, state, or local government.

Sec. 3. RCW 82.04.050 and 2017 3rd sp.s. c 37 s 1201 are each amended to read as follows:

(1)(a) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who:

(i) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, but a purchase for the purpose of resale by a regional transit authority under RCW 81.112.300 is not a sale for resale; or

(ii) Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(iii) Purchases for the purpose of consuming the property purchased in producing for sale as a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

(iv) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(v) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065; or

(vi) Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (7) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

(b) The term includes every sale of tangible personal property that is used or consumed or to be used or consumed in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property is resold or used as provided in (a)(i) through (vi) of this subsection following such use.

(c) The term also means every sale of tangible personal property to persons engaged in any business that is taxable under RCW 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

(2) The term "sale at retail" or "retail sale" includes the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

(a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of self-service laundry facilities, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;

(b) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and also includes the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

(c) The constructing, repairing, or improving of any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

(d) The cleaning, fumigating, razing, or moving of existing buildings or structures, but does not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" means those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

(e) Automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

(f) The furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it is presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it is presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same;

(g) The installing, repairing, altering, or improving of digital goods for consumers;

(h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection may be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section may be construed to modify this subsection.

(3) The term "sale at retail" or "retail sale" includes the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

(a) Abstract, title insurance, and escrow services;

(b) Credit bureau services;

(c) Automobile parking and storage garage services;

(d) Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

(e) Service charges associated with tickets to professional sporting events;

(f) The following personal services: Tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services; and

(g)(i) Operating an athletic or fitness facility, including all charges for the use of such a facility or for any associated services and amenities, except as provided in (g)(ii) of this subsection.

(ii) Notwithstanding anything to the contrary in (g)(i) of this subsection (3), the term "sale at retail" and "retail sale" under this subsection does not include:

(A) Separately stated charges for the use of an athletic or fitness facility where such use is primarily for a purpose other than engaging in or receiving instruction in a physical fitness activity;

(B) Separately stated charges for the use of a discrete portion of an athletic or fitness facility, other than a pool, where such discrete portion of the facility does not by itself meet the definition of "athletic or fitness facility" in this subsection;

(C) Separately stated charges for services, such as advertising, massage, nutritional consulting, and body composition testing, that do not require the customer to engage in physical fitness activities to receive the service. The exclusion in this subsection (3)(g)(ii)(C) does not apply to personal training services and instruction in a physical fitness activity;

(D) Separately stated charges for physical therapy provided by a physical therapist, as those terms are defined in RCW 18.74.010, or occupational therapy provided by an occupational therapy practitioner, as those terms are defined in RCW 18.59.020, when performed pursuant to a referral from an authorized health care practitioner or in consultation with an authorized health care

practitioner. For the purposes of this subsection (3)(g)(ii)(D), an authorized health care practitioner means a health care practitioner licensed under chapter 18.83, 18.25, 18.36A, 18.57, ~~((18.57A))~~ 18.71, or 18.71A RCW, or, until July 1, 2022, chapter 18.57A RCW;

(E) Rent or association fees charged by a landlord or residential association to a tenant or residential owner with access to an athletic or fitness facility maintained by the landlord or residential association, unless the rent or fee varies depending on whether the tenant or owner has access to the facility;

(F) Services provided in the regular course of employment by an employee with access to an athletic or fitness facility maintained by the employer for use without charge by its employees or their family members;

(G) The provision of access to an athletic or fitness facility by an educational institution to its students and staff. However, charges made by an educational institution to its alumni or other members of the public for the use of any of the educational institution's athletic or fitness facilities are a retail sale under this subsection (3)(g). For purposes of this subsection (3)(g)(ii)(G), "educational institution" has the same meaning as in RCW 82.04.170;

(H) Yoga, chi gong, or martial arts classes, training, or events held at a community center, park, school gymnasium, college or university, hospital or other medical facility, private residence, or any other facility that is not operated within and as part of an athletic or fitness facility.

(iii) Nothing in (g)(ii) of this subsection (3) may be construed to affect the taxation of sales made by the operator of an athletic or fitness facility, where such sales are defined as a retail sale under any provision of this section other than this subsection (3).

(iv) For the purposes of this subsection (3)(g), the following definitions apply:

(A) "Athletic or fitness facility" means an indoor or outdoor facility or portion of a facility that is primarily used for: Exercise classes; strength and conditioning programs; personal training services; tennis, racquetball, handball, squash, or pickleball; or other activities requiring the use of exercise or strength training equipment, such as treadmills, elliptical machines, stair climbers, stationary cycles, rowing machines, pilates equipment, balls, climbing ropes, jump ropes, and weightlifting equipment.

(B) "Martial arts" means any of the various systems of training for physical combat or self-defense. "Martial arts" includes, but is not limited to, karate, kung fu, tae kwon do, Krav Maga, boxing, kickboxing, jujitsu, shootfighting, wrestling, aikido, judo, hapkido, Kendo, tai chi, and mixed martial arts.

(C) "Physical fitness activities" means activities that involve physical exertion for the purpose of improving or maintaining the general fitness, strength, flexibility, conditioning, or health of the participant. "Physical fitness activities" includes participating in yoga, chi gong, or martial arts.

(4)(a) The term also includes the renting or leasing of tangible personal property to consumers.

(b) The term does not include the renting or leasing of tangible personal property where the lease or rental is for the purpose of sublease or subrent.

(5) The term also includes the providing of "competitive telephone service," "telecommunications service," or "ancillary services," as those terms are defined in RCW 82.04.065, to consumers.

(6)(a) The term also includes the sale of prewritten computer software to a consumer, regardless of the method of delivery to the end user. For purposes of (a) and (b) of this subsection, the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser.

(b) The term "retail sale" does not include the sale of or charge made for:

(i) Custom software; or

(ii) The customization of prewritten computer software.

(c)(i) The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.

(ii)(A) The service described in (c)(i) of this subsection (6) includes the right to access and use prewritten computer software to perform data processing.

(B) For purposes of this subsection (6)(c)(ii), "data processing" means the systematic performance of operations on data to extract the required information in an appropriate form or to convert the data to usable information. Data processing includes check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities.

(7) The term also includes the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement. For purposes of this subsection, "sales price" has the same meaning as in RCW 82.08.010.

(8)(a) The term also includes the following sales to consumers of digital goods, digital codes, and digital automated services:

(i) Sales in which the seller has granted the purchaser the right of permanent use;

(ii) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(iii) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(iv) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(b) A retail sale of digital goods, digital codes, or digital automated services under this subsection (8) includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(c) For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

(9) The term also includes the charge made for providing tangible personal property along with an operator for a fixed or indeterminate period of time. A consideration of this is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (9), an operator must do more than maintain, inspect, or set up the tangible personal property.

(10) The term does not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

(11) The term also does not include sales of chemical sprays or washes to persons for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, nor does it include sales of feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials to: (a) Persons who participate in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, and the wildlife habitat incentives program, or their successors administered by the United States department of agriculture; (b) farmers for the purpose of producing for sale any agricultural product; (c) farmers for the purpose of providing bee pollination services; and (d) farmers acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code or the Washington state department of fish and wildlife to produce or improve wildlife habitat on land that the farmer owns or leases.

(12) The term does not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor does the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor does the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development.

(13) The term does not include the sale of or charge made for labor, services, or tangible personal property pursuant to agreements providing maintenance services for bus, rail, or rail fixed guideway equipment when a regional transit authority is the recipient of the labor, services, or tangible

personal property, and a transit agency, as defined in RCW 81.104.015, performs the labor or services.

(14) The term does not include the sale for resale of any service described in this section if the sale would otherwise constitute a "sale at retail" and "retail sale" under this section.

(15)(a) The term "sale at retail" or "retail sale" includes amounts charged, however labeled, to consumers to engage in any of the activities listed in this subsection (15)(a), including the furnishing of any associated equipment or, except as otherwise provided in this subsection, providing instruction in such activities, where such charges are not otherwise defined as a "sale at retail" or "retail sale" in this section:

(i)(A) Golf, including any variant in which either golf balls or golf clubs are used, such as miniature golf, hitting golf balls at a driving range, and golf simulators, and including fees charged by a golf course to a player for using his or her own cart. However, charges for golf instruction are not a retail sale, provided that if the instruction involves the use of a golfing facility that would otherwise require the payment of a fee, such as green fees or driving range fees, such fees, including the applicable retail sales tax, must be separately identified and charged by the golfing facility operator to the instructor or the person receiving the instruction.

(B) Notwithstanding (a)(i)(A) of this subsection (15) and except as otherwise provided in this subsection (15)(a)(i)(B), the term "sale at retail" or "retail sale" does not include amounts charged to participate in, or conduct, a golf tournament or other competitive event. However, amounts paid by event participants to the golf facility operator are retail sales under this subsection (15)(a)(i). Likewise, amounts paid by the event organizer to the golf facility are retail sales under this subsection (15)(a)(i), if such amounts vary based on the number of event participants;

(ii) Ballooning, hang gliding, indoor or outdoor sky diving, paragliding, parasailing, and similar activities;

(iii) Air hockey, billiards, pool, foosball, darts, shuffleboard, ping pong, and similar games;

(iv) Access to amusement park, theme park, and water park facilities, including but not limited to charges for admission and locker or cabana rentals. Discrete charges for rides or other attractions or entertainment that are in addition to the charge for admission are not a retail sale under this subsection (15)(a)(iv). For the purposes of this subsection, an amusement park or theme park is a location that provides permanently affixed amusement rides, games, and other entertainment, but does not include parks or zoos for which the primary purpose is the exhibition of wildlife, or fairs, carnivals, and festivals as defined in (b)(i) of this subsection;

(v) Batting cage activities;

(vi) Bowling, but not including competitive events, except that amounts paid by the event participants to the bowling alley operator are retail sales under this subsection (15)(a)(vi). Likewise, amounts paid by the event organizer to the operator of the bowling alley are retail sales under this subsection (15)(a)(vi), if such amounts vary based on the number of event participants;

(vii) Climbing on artificial climbing structures, whether indoors or outdoors;

(viii) Day trips for sightseeing purposes;

(ix) Bungee jumping, zip lining, and riding inside a ball, whether inflatable or otherwise;

(x) Horseback riding offered to the public, where the seller furnishes the horse to the buyer and providing instruction is not the primary focus of the activity, including guided rides, but not including therapeutic horseback riding provided by an instructor certified by a nonprofit organization that offers national or international certification for therapeutic riding instructors;

(xi) Fishing, including providing access to private fishing areas and charter or guided fishing, except that fishing contests and license fees imposed by a government entity are not a retail sale under this subsection;

(xii) Guided hunting and hunting at game farms and shooting preserves, except that hunting contests and license fees imposed by a government entity are not a retail sale under this subsection;

(xiii) Swimming, but only in respect to (A) recreational or fitness swimming that is open to the public, such as open swim, lap swimming, and special events like kids night out and pool parties during open swim time, and (B) pool parties for private events, such as birthdays, family gatherings, and employee outings. Fees for swimming lessons, to participate in swim meets and other competitions, or to join a swim team, club, or aquatic facility are not retail sales under this subsection (15)(a)(xiii);

(xiv) Go-karting, bumper cars, and other motorized activities where the seller provides the vehicle and the premises where the buyer will operate the vehicle;

(xv) Indoor or outdoor playground activities, such as inflatable bounce structures and other inflatables; mazes; trampolines; slides; ball pits; games of tag, including laser tag and soft-dart tag; and human gyroscope rides, regardless of whether such activities occur at the seller's place of business, but not including playground activities provided for children by a licensed child day care center or licensed family day care provider as those terms are defined in RCW ((43.215.010)) 43.216.010;

(xvi) Shooting sports and activities, such as target shooting, skeet, trap, sporting clays, "5" stand, and archery, but only in respect to discrete charges to members of the public to engage in these activities, but not including fees to enter a competitive event, instruction that is entirely or predominately classroom based, or to join or renew a membership at a club, range, or other facility;

(xvii) Paintball and airsoft activities;

(xviii) Skating, including ice skating, roller skating, and inline skating, but only in respect to discrete charges to members of the public to engage in skating activities, but not including skating lessons, competitive events, team activities, or fees to join or renew a membership at a skating facility, club, or other organization;

(xix) Nonmotorized snow sports and activities, such as downhill and cross-country skiing, snowboarding, ski jumping, sledding, snow tubing, snowshoeing, and similar snow sports and activities, whether engaged in outdoors or in an indoor facility with or without snow, but only in respect to discrete charges to the public for the use of land or facilities to engage in nonmotorized snow sports and activities, such as fees, however labeled, for the use of ski lifts and tows and daily or season passes for access to trails or other

areas where nonmotorized snow sports and activities are conducted. However, fees for the following are not retail sales under this subsection (15)(a)(xix): (A) Instructional lessons; (B) permits issued by a governmental entity to park a vehicle on or access public lands; and (C) permits or leases granted by an owner of private timberland for recreational access to areas used primarily for growing and harvesting timber; and

(xx) Scuba diving; snorkeling; river rafting; surfing; kiteboarding; flyboarding; water slides; inflatables, such as water pillows, water trampolines, and water rollers; and similar water sports and activities.

(b) Notwithstanding anything to the contrary in this subsection (15), the term "sale at retail" or "retail sale" does not include charges:

(i) Made for admission to, and rides or attractions at, fairs, carnivals, and festivals. For the purposes of this subsection, fairs, carnivals, and festivals are events that do not exceed twenty-one days and a majority of the amusement rides, if any, are not affixed to real property;

(ii) Made by an educational institution to its students and staff for activities defined as retail sales by (a)(i) through (xx) of this subsection. However, charges made by an educational institution to its alumni or other members of the general public for these activities are a retail sale under this subsection (15). For purposes of this subsection (15)(b)(ii), "educational institution" has the same meaning as in RCW 82.04.170;

(iii) Made by a vocational school for commercial diver training that is licensed by the workforce training and education coordinating board under chapter 28C.10 RCW; or

(iv) Made for day camps offered by a nonprofit organization or state or local governmental entity that provide youth not older than age eighteen, or that are focused on providing individuals with disabilities or mental illness, the opportunity to participate in a variety of supervised activities.

(16)(a) The term "sale at retail" or "retail sale" includes the purchase or acquisition of tangible personal property and specified services by a person who receives a qualifying grant exempt from tax under section 1 or 2 of this act, except for transactions excluded from the definition of "sale at retail" or "retail sale" by any other provision of this section. Nothing in this subsection (16) may be construed to limit the application of any other provision of this section to purchases by a recipient of a qualifying grant exempt from tax under section 1 of this act or by any other person.

(b) For purposes of this subsection (16), "specified services" means:

(i) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation;

(ii) The clearing of land or the moving of earth, whether or not associated with activities described in (b)(i) of this subsection (16);

(iii) The razing or moving of existing buildings or structures; and

(iv) Landscape maintenance and horticultural services.

NEW SECTION, Sec. 4. A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to a grantee's receipt of a qualifying grant that is exempt from business and occupation tax under section 1 of this act.

(2) Nothing in this section may be construed to:

(a) Imply that the tax levied by RCW 82.08.020 applies to any circumstance not described in subsection (1) of this section; or

(b) Provide an exemption from the tax levied by RCW 82.08.020 for the grantee's use of a qualifying grant to acquire products in a transaction meeting the definition of "retail sale" in RCW 82.04.050.

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

(a) "Grantee" means the recipient of a qualifying grant.

(b) "Product" means the same as in RCW 82.32.023.

(c) "Qualifying grant" means the same as in section 1 of this act.

NEW SECTION. **Sec. 5.** 2020 c 80 s 58 is repealed.

Sec. 6. 2020 c 80 s 62 (uncodified) is amended to read as follows:

Sections 12 through 57 and 59 of this act take effect July 1, 2022.

NEW SECTION. **Sec. 7.** This act applies both prospectively and retroactively to February 29, 2020.

NEW SECTION. **Sec. 8.** The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act.

NEW SECTION. **Sec. 9.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House January 22, 2021.

Passed by the Senate February 10, 2021.

Approved by the Governor February 19, 2021.

Filed in Office of Secretary of State February 19, 2021.

CHAPTER 5

[House Bill 1367]

MEDICAID APPROPRIATIONS REVISIONS--COVID-19

AN ACT Relating to revising 2019-2021 fiscal biennium appropriations of state and federal funding for previously implemented medicaid rates and other medicaid expenditures in the developmental disabilities and long-term care programs in response to the COVID-19 pandemic; creating new sections; making appropriations; and declaring an emergency.

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

NEW SECTION. Sec. 1. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—DEVELOPMENTAL DISABILITIES PROGRAM—COMMUNITY SERVICES

Budget Stabilization Account—State Appropriation	
(FY 2021)	\$54,671,000
General Fund—Federal Appropriation (2019-2021 biennium)	\$79,886,000
TOTAL APPROPRIATION	\$134,557,000

The appropriations in this section are subject to the following conditions and limitations: The entire budget stabilization account—state appropriation for

fiscal year 2021 and the entire general fund—federal appropriation (federal medical assistance percentage) are provided solely for COVID-19 response in calendar year 2020, including the temporary COVID-19 rate enhancements offered to contracted service providers.

NEW SECTION. Sec. 2. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—AGING AND ADULT SERVICES PROGRAM

Budget Stabilization Account—State Appropriation

(FY 2021)	\$109,589,000
General Fund—Federal Appropriation (2019-2021 biennium)	\$159,494,000
TOTAL APPROPRIATION	\$269,083,000

The appropriations in this section are subject to the following conditions and limitations: The entire budget stabilization account—state appropriation for fiscal year 2021 and the entire general fund—federal appropriation (federal medical assistance percentage) are provided solely for COVID-19 response in calendar year 2020, including the temporary COVID-19 rate enhancements offered to contracted service providers.

NEW SECTION. Sec. 3. The legislature finds that in March 2020, congress enacted the coronavirus aid, relief and economic security act (CARES act), which created the coronavirus relief fund to assist states with unanticipated and unbudgeted coronavirus response costs, and that such funding had to be spent by December 30, 2020, or returned to the federal treasury. The legislature finds that the coronavirus response and relief supplemental appropriations act (CRRSA act) enacted December 27, 2020, extended the deadline before which coronavirus relief funds could be spent until December 31, 2021. The legislature finds the deadline extension provides an opportunity to reevaluate previous state expenditures of coronavirus relief funds. It is in the best interest of Washingtonians to maximize available federal funding from the coronavirus relief fund to the full extent permitted by federal law and to recognize its flexibility as a fund source to address the urgent needs of Washington's residents and businesses during the pandemic. For these reasons, in this act the legislature revises 2019-2021 biennial appropriations, including appropriations for fiscal year 2020, for funding provided to the developmental disabilities and long-term care programs in the department of social and health services for temporary rate increases authorized for service providers as a result of the state's response to the coronavirus. Specifically, appropriations are revised to attribute these expenditures to the state funding from the budget stabilization account and associated medicaid federal funds participation, rather than to federal funding from the coronavirus relief fund. The federal coronavirus relief fund moneys made available by the revisions in this act are appropriated in House Bill No. . . . (H-0476/21) (COVID-19 response) for the benefit of Washington's residents and businesses.

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. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of

federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. **Sec. 6.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House February 1, 2021.

Passed by the Senate February 10, 2021.

Approved by the Governor February 19, 2021.

Filed in Office of Secretary of State February 19, 2021.

CHAPTER 6

[Engrossed Substitute Senate Bill 5272]

LIQUOR AND CANNABIS BOARD ANNUAL LICENSING FEES--TEMPORARY WAIVER

AN ACT Relating to temporarily waiving certain liquor and cannabis board annual licensing fees; amending RCW 66.24.140, 66.24.146, 66.24.170, 66.24.240, 66.24.244, 66.24.320, 66.24.330, 66.24.350, 66.24.420, 66.24.495, 66.24.540, 66.24.570, 66.24.580, 66.24.590, 66.24.600, 66.24.650, 66.24.655, 66.24.680, and 66.24.690; and declaring an emergency.

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

Sec. 1. RCW 66.24.140 and 2020 c 238 s 1 are each amended to read as follows:

(1) There is a license to distillers, including blending, rectifying, and bottling; fee two thousand dollars per annum, unless provided otherwise as follows:

(a) For distillers producing one hundred fifty thousand gallons or less of spirits with at least half of the raw materials used in the production grown in Washington, the license fee must be reduced to one hundred dollars per annum;

(b) The board must license stills used and to be used solely and only by a commercial chemist for laboratory purposes, and not for the manufacture of liquor for sale, at a fee of twenty dollars per annum;

(c) The board must license stills used and to be used solely and only for laboratory purposes in any school, college, or educational institution in the state, without fee; ~~((and))~~

(d) The board must license stills that have been duly licensed as fruit and/or wine distilleries by the federal government, used and to be used solely as fruit and/or wine distilleries in the production of fruit brandy and wine spirits, at a fee of two hundred dollars per annum;

(e) The annual fees in this subsection (1) are waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(e); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(e);

(f) The waivers in (e) of this subsection do not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220; and

(g) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (e) of this subsection for the reasons described in (f) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2) Any distillery licensed under this section may:

(a) Sell, for off-premises consumption, spirits of the distillery's own production, spirits produced by another distillery or craft distillery licensed in this state, or vermouth or sparkling wine products produced by a licensee in this state. A distillery selling spirits or other alcohol authorized under this subsection must comply with the applicable laws and rules relating to retailers for those products;

(b) Contract distilled spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export; and

(c) Serve samples of spirits for free or for a charge, and sell servings of spirits, vermouth, and sparkling wine to customers for on-premises consumption, at the premises of the distillery indoors, outdoors, or in any combination thereof, and at the distillery's off-site tasting rooms in accordance with this chapter, subject to the following conditions:

(i) A distillery may provide to customers, for free or for a charge, for on-premises consumption, spirits samples that are one-half ounce or less per sample of spirits, and that may be adulterated with water, ice, other alcohol entitled to be served or sold on the licensed premises under this section, or nonalcoholic mixers;

(ii) A distillery may sell, for on-premises consumption, servings of spirits of the distillery's own production or spirits produced by another distillery or craft distillery licensed in this state, which must be adulterated with water, ice, other alcohol entitled to be sold or served on the licensed premises, or nonalcoholic mixers if the revenue derived from the sale of spirits for on-premises consumption under this subsection (2)(c)(ii) does not comprise more than thirty percent of the overall gross revenue earned in the tasting room during the calendar year. Any distiller who sells adulterated products under this subsection, must file an annual report with the board that summarizes the distiller's revenue sources; and

(iii) A distillery may sell, for on-premises consumption, servings of vermouth or sparkling wine products produced by a licensee in this state.

(3)(a) If a distillery provides or sells spirits or other alcohol products authorized to be sold or provided to customers for on-premises or off-premises consumption that are produced by another distillery, craft distillery, or licensee in this state, then at any one time no more than twenty-five percent of the alcohol stock-keeping units offered or sold by the distillery at its distillery premises and at any off-site tasting rooms licensed under RCW 66.24.146 may be vermouth, sparkling wine, or spirits made by another distillery, craft distillery, or licensee in this state. If a distillery sells fewer than twenty alcohol stock-keeping units of products of its own production, it may sell up to five alcohol stock-keeping units of vermouth, sparkling wine, or spirits produced by another distillery, craft distillery, or licensee in this state.

(b) A person is limited to receiving or purchasing, for on-premises consumption, no more than two ounces total of spirits that are unadulterated. Any additional spirits purchased for on-premises consumption must be adulterated as authorized in this section.

(c)(i) No person under twenty-one years of age may be on the premises of a distillery tasting room, including an off-site tasting room licensed under RCW 66.24.146, unless they are accompanied by their parent or legal guardian.

(ii) Every distillery tasting room, including the off-site tasting rooms licensed under RCW 66.24.146, where alcohol is sampled, sold, or served, must include a designated area where persons under twenty-one years of age are allowed to enter. Such location may be in a separate room or a designated area within the tasting room separated from the remainder of the tasting room space as authorized by the board.

(iii) Except for (c)(iv) of this subsection, or an event where a private party has secured a private banquet permit, no person under twenty-one years of age may be on the distillery premises, or the off-site tasting rooms licensed under RCW 66.24.146, past 9:00 p.m.

(iv) Notwithstanding the limitations of (c)(iii) of this subsection, persons under twenty-one years of age who are children of owners, operators, or managers of a distillery or an off-site tasting room licensed under RCW 66.24.146, may be in any area of a distillery, tasting room, or an off-site tasting room licensed under RCW 66.24.146, provided they must be under the direct supervision of their parent or legal guardian while on the premises.

(d) Any person serving or selling spirits or other alcohol authorized to be served or sold by a distillery must obtain a class 12 alcohol server permit.

(e) A distillery may sell nonalcoholic products at retail.

Sec. 2. RCW 66.24.146 and 2020 c 238 s 3 are each amended to read as follows:

(1) There is a tasting room license available to distillery and craft distillery licensees. A tasting room license authorizes the operation of an off-site tasting room, in addition to a tasting room attached to the distillery's or craft distillery's production facility, at which the licensee may sample, serve, and sell spirits and alcohol products authorized to be sampled, served, and sold under RCW 66.24.140 and 66.24.145, for on-premises and off-premises consumption, subject to the same limitations as provided in RCW 66.24.140 and 66.24.145.

(2)(a) A distillery or craft distillery licensed production facility is eligible for no more than two off-site tasting room licenses located in this state, which may be indoors, or outdoors or a combination thereof, and which shall be

administratively tied to a licensed production facility. A separate license is required for the operation of each off-site tasting room. The fee for each off-site tasting room license is two thousand dollars per annum. No additional license is required for a distillery or craft distillery to sample, serve, and sell spirits and alcohol to customers in a tasting room on the distillery or craft distillery premises as authorized under this section, RCW 66.24.1472, 66.24.140, 66.24.145, 66.28.040, 66.24.630, and 66.28.310. Off-site tasting rooms may have a section identified and segregated as federally bonded spaces for the storage of bulk or packaged spirits. Product of the licensee's production may be bottled or packaged in the space.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (2)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (2)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

Sec. 3. RCW 66.24.170 and 2019 c 169 s 1 are each amended to read as follows:

(1)(a) There is a license for domestic wineries; fee to be computed only on the liters manufactured: Less than two hundred fifty thousand liters per year, one hundred dollars per year; and two hundred fifty thousand liters or more per year, four hundred dollars per year.

(b) The annual fees in (a) of this subsection are waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(b).

(c) The waivers in (b) of this subsection do not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2) The license allows for the manufacture of wine in Washington state from grapes or other agricultural products.

(3) Any domestic winery licensed under this section may also act as a retailer of wine of its own production. Any domestic winery licensed under this section may act as a distributor of its own production. Notwithstanding any language in this title to the contrary, a domestic winery may use a common carrier to deliver up to one hundred cases of its own production, in the aggregate, per month to licensed Washington retailers. A domestic winery may not arrange for any such common carrier shipments to licensed retailers of wine not of its own production. Except as provided in this section, any winery operating as a distributor and/or retailer under this subsection must comply with the applicable laws and rules relating to distributors and/or retailers, except that a winery operating as a distributor may maintain a warehouse off the premises of the winery for the distribution of wine of its own production provided that: (a) The warehouse has been approved by the board under RCW 66.24.010; and (b) the number of warehouses off the premises of the winery does not exceed one.

(4)(a) A domestic winery licensed under this section, at locations separate from any of its production or manufacturing sites, may serve samples of its own products, with or without charge, may sell wine of its own production at retail, and may sell for off-premises consumption wines of its own production in kegs or sanitary containers meeting the applicable requirements of federal law brought to the premises by the purchaser or furnished by the licensee and filled at the tap at the time of sale, provided that: (i) Each additional location has been approved by the board under RCW 66.24.010; (ii) the total number of additional locations does not exceed four; (iii) a winery may not act as a distributor at any such additional location; and (iv) any person selling or serving wine at an additional location for on-premises consumption must obtain a class 12 or class 13 alcohol server permit. Each additional location is deemed to be part of the winery license for the purpose of this title. At additional locations operated by multiple wineries under this section, if the board cannot connect a violation of RCW 66.44.200 or 66.44.270 to a single licensee, the board may hold all licensees operating the additional location jointly liable. Nothing in this subsection may be construed to prevent a domestic winery from holding multiple domestic winery licenses.

(b) A customer of a domestic winery may remove from the premises of the domestic winery or from a tasting room location approved under (a) of this subsection, recorked or recapped in its original container, any portion of wine purchased for on-premises consumption.

(5)(a) A domestic winery licensed under this section may apply to the board for an endorsement to sell wine of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars. An endorsement issued pursuant to this subsection does not count toward the four additional retail locations limit specified in this section.

(b) For each month during which a domestic winery will sell wine at a qualifying farmers market, the winery must provide the board or its designee a list of the dates, times, and locations at which bottled wine may be offered for sale. This list must be received by the board before the winery may offer wine for sale at a qualifying farmers market.

(c) The wine sold at qualifying farmers markets must be made entirely from grapes grown in a recognized Washington appellation or from other agricultural products grown in this state.

(d) Each approved location in a qualifying farmers market is deemed to be part of the winery license for the purpose of this title. The approved locations under an endorsement granted under this subsection include tasting or sampling privileges subject to the conditions pursuant to RCW 66.24.175. The winery may not store wine at a farmers market beyond the hours that the winery offers bottled wine for sale. The winery may not act as a distributor from a farmers market location.

(e) Before a winery may sell bottled wine at a qualifying farmers market, the farmers market must apply to the board for authorization for any winery with an endorsement approved under this subsection to sell bottled wine at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved winery may sell bottled wine; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled wine may be sold. Before authorizing a qualifying farmers market to allow an approved winery to sell bottled wine at retail at its farmers market location, the board must notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (5)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and such additional rules as may be necessary to implement this section.

(g) For the purposes of this subsection:

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers. However, if a farmers market does not satisfy this subsection (5)(g)(i)(B), a farmers market is still considered a "qualifying farmers market" if

the total combined gross annual sales of farmers and processors at the farmers market is one million dollars or more;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

(6) Wine produced in Washington state by a domestic winery licensee may be shipped out-of-state for the purpose of making it into sparkling wine and then returned to such licensee for resale. Such wine is deemed wine manufactured in the state of Washington for the purposes of RCW 66.24.206, and shall not require a special license.

(7) During an event held by a nonprofit holding a special occasion license issued under RCW 66.24.380, a domestic winery licensed under this section may take orders, either in writing or electronically, and accept payment for wines of its own production under the following conditions:

(a) Wine produced by the domestic winery may be served for on-premises consumption by the special occasion licensee;

(b) The domestic winery delivers wine to the consumer on a date after the conclusion of the special occasion event;

(c) The domestic winery delivers wine to the consumer at a location different from the location at which the special occasion event is held;

(d) The domestic winery complies with all requirements in chapter 66.20 RCW for direct sale of wine to consumers;

(e) The wine is not sold for resale; and

(f) The domestic winery is entitled to all proceeds from the sale and delivery of its wine to a consumer after the conclusion of the special occasion event, but may enter into an agreement to share a portion of the proceeds of these sales with the special occasion licensee licensed under RCW 66.24.380.

Sec. 4. RCW 66.24.240 and 2020 c 230 s 1 are each amended to read as follows:

(1)(a) There shall be a license for domestic breweries; fee to be two thousand dollars for production of sixty thousand barrels or more of malt liquor per year.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2) Any domestic brewery, except for a brand owner of malt beverages under RCW 66.04.010(7), licensed under this section may also act as a distributor and/or retailer for beer of its own production. Any domestic brewery operating as a distributor and/or retailer under this subsection shall comply with the applicable laws and rules relating to distributors and/or retailers. A domestic brewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(3) Any domestic brewery licensed under this section may also sell beer produced by another domestic brewery or a microbrewery for on and off-premises consumption from its premises as long as the other breweries' brands do not exceed twenty-five percent of the domestic brewery's on-tap offering of its own brands.

(4) A domestic brewery may hold up to four retail licenses to operate an on or off-premises tavern, beer and/or wine restaurant, spirits, beer, and wine restaurant, or any combination thereof. This retail license is separate from the brewery license. A brewery that holds a tavern license, a spirits, beer, and wine restaurant license, or a beer and/or wine restaurant license shall hold the same privileges and endorsements as permitted under RCW 66.24.320, 66.24.330, and 66.24.420.

(5) Any domestic brewery licensed under this section may contract-produce beer for a brand owner of malt beverages defined under RCW 66.04.010(7), and this contract-production is not a sale for the purposes of RCW 66.28.170 and 66.28.180.

(6)(a) A domestic brewery licensed under this section and qualified for a reduced rate of taxation pursuant to RCW 66.24.290(3)(b) may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a domestic brewery will sell beer at a qualifying farmers market, the domestic brewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be

offered for sale. This list must be received by the board before the domestic brewery may offer beer for sale at a qualifying farmers market.

(c) The beer sold at qualifying farmers markets must be produced in Washington.

(d) Each approved location in a qualifying farmers market is deemed to be part of the domestic brewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection do not include the tasting or sampling privilege of a domestic brewery. The domestic brewery may not store beer at a farmers market beyond the hours that the domestic brewery offers bottled beer for sale. The domestic brewery may not act as a distributor from a farmers market location.

(e) Before a domestic brewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any domestic brewery with an endorsement approved under this subsection to sell bottled beer at retail at the farmers market. This application shall include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved domestic brewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved domestic brewery to sell bottled beer at retail at its farmers market location, the board shall notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (6)(e) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(f) The board may adopt rules establishing the application and approval process under this section and such additional rules as may be necessary to implement this section.

(g) For the purposes of this subsection:

(i) "Qualifying farmers market" means an entity that sponsors a regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer under conditions that meet the following minimum requirements:

(A) There are at least five participating vendors who are farmers selling their own agricultural products;

(B) The total combined gross annual sales of vendors who are farmers exceeds the total combined gross annual sales of vendors who are processors or resellers;

(C) The total combined gross annual sales of vendors who are farmers, processors, or resellers exceeds the total combined gross annual sales of vendors who are not farmers, processors, or resellers;

(D) The sale of imported items and secondhand items by any vendor is prohibited; and

(E) No vendor is a franchisee.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

(7) The state board of health shall adopt rules to allow dogs on the premises of licensed domestic breweries that do not provide food service subject to a food service permit requirement.

Sec. 5. RCW 66.24.244 and 2020 c 230 s 2 are each amended to read as follows:

(1)(a) There shall be a license for microbreweries; fee to be one hundred dollars for production of less than sixty thousand barrels of malt liquor, including strong beer, per year.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2)(a) Any microbrewery licensed under this section may also act as a distributor and/or retailer for beer and strong beer of its own production.

(b) Any microbrewery operating as a distributor and/or retailer under this subsection must comply with the applicable laws and rules relating to distributors and/or retailers, except that a microbrewery operating as a distributor may maintain a warehouse off the premises of the microbrewery for the distribution of beer provided that:

(i) The warehouse has been approved by the board under RCW 66.24.010; and

(ii) The number of warehouses off the premises of the microbrewery does not exceed one.

(c) A microbrewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the

purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(3) Any microbrewery licensed under this section may also sell from its premises for on-premises and off-premises consumption:

(a) Beer produced by another microbrewery or a domestic brewery as long as the other breweries' brands do not exceed twenty-five percent of the microbrewery's on-tap offerings; or

(b) Cider produced by a domestic winery.

(4) The board may issue up to four retail licenses allowing a microbrewery to operate an on or off-premises tavern, beer and/or wine restaurant, spirits, beer, and wine restaurant, or any combination thereof.

(5) A microbrewery that holds a tavern license, spirits, beer, and wine restaurant license, or a beer and/or wine restaurant license holds the same privileges and endorsements as permitted under RCW 66.24.320, 66.24.330, and 66.24.420.

(6)(a) A microbrewery licensed under this section may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars. However, strong beer may not be sold at a farmers market or under any endorsement which may authorize microbreweries to sell beer at farmers markets.

(b) For each month during which a microbrewery will sell beer at a qualifying farmers market, the microbrewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the microbrewery may offer beer for sale at a qualifying farmers market.

(c) Any person selling or serving beer must obtain a class 12 or class 13 alcohol server permit.

(d) The beer sold at qualifying farmers markets must be produced in Washington.

(e) Each approved location in a qualifying farmers market is deemed to be part of the microbrewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection (6) include tasting or sampling privileges subject to the conditions pursuant to RCW 66.24.175. The microbrewery may not store beer at a farmers market beyond the hours that the microbrewery offers bottled beer for sale. The microbrewery may not act as a distributor from a farmers market location.

(f) Before a microbrewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any microbrewery with an endorsement approved under this subsection (6) to sell bottled beer at retail at the farmers market. This application must include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved microbrewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved microbrewery to sell bottled beer at retail at its farmers market location, the board must notify the persons or entities of the application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization

granted under this subsection (6)(f) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(g) The board may adopt rules establishing the application and approval process under this section and any additional rules necessary to implement this section.

(h) For the purposes of this subsection (6):

(i) "Qualifying farmers market" has the same meaning as defined in RCW 66.24.170.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

(7) Any microbrewery licensed under this section may contract-produce beer for another microbrewer. This contract-production is not a sale for the purposes of RCW 66.28.170 and 66.28.180.

(8) The state board of health shall adopt rules to allow dogs on the premises of licensed microbreweries that do not provide food service subject to a food service permit requirement.

Sec. 6. RCW 66.24.320 and 2019 c 169 s 2 are each amended to read as follows:

There shall be a beer and/or wine restaurant license to sell beer, including strong beer, or wine, or both, at retail, for consumption on the premises. A patron of the licensee may remove from the premises, recorked or recapped in its original container, any portion of wine or sake that was purchased for consumption with a meal.

(1)(a) The annual fee shall be two hundred dollars for the beer license, two hundred dollars for the wine license, or four hundred dollars for a combination beer and wine license.

(b) The annual fees in (a) of this subsection are waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(b).

(c) The waivers in (b) of this subsection do not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they

have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove from the liquor stocks at the licensed premises, only those types of liquor that are authorized under the on-premises license privileges for sale and service at event locations at a specified date and, except as provided in subsection (3) of this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with a catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on the premises of another not licensed by the board so long as there is a written agreement between the licensee and the other party to provide for ongoing catering services, the agreement contains no exclusivity clauses regarding the alcoholic beverages to be served, and the agreement is filed with the board.

(d) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee. A duplicate license may be issued for each additional premises. A license fee of twenty dollars shall be required for such duplicate licenses.

(3) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises or on the premises of a passenger vessel and may store liquor at such premises under conditions established by the board under the following conditions:

(a) Agreements between the domestic winery or the passenger vessel, as the case may be, and the retail licensee shall be in writing, contain no exclusivity clauses regarding the alcoholic beverages to be served, and be filed with the board; and

(b) The domestic winery or passenger vessel, as the case may be, and the retail licensee shall be separately contracted and compensated by the persons sponsoring the event for their respective services.

(4) The holder of this license or its manager may furnish beer or wine to the licensee's employees free of charge as may be required for use in connection with instruction on beer and wine. The instruction may include the history, nature, values, and characteristics of beer or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling beer or wine. The beer

and/or wine licensee must use the beer or wine it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the beer and/or wine licensee.

(5) If the license is issued to a person who contracts with the Washington state ferry system to provide food and alcohol service on a designated ferry route, the license shall cover any vessel assigned to the designated route. A separate license is required for each designated ferry route.

Sec. 7. RCW 66.24.330 and 2017 c 252 s 1 are each amended to read as follows:

(1) There is a beer and wine retailer's license to be designated as a tavern license to sell beer, including strong beer, or wine, or both, at retail, for consumption on the premises. Such licenses may be issued only to a person operating a tavern that may be frequented only by persons twenty-one years of age and older.

(2)(a) The annual fee for the license is two hundred dollars for the beer license, two hundred dollars for the wine license, or four hundred dollars for a combination beer and wine license. Licensees who have a fee increase of more than one hundred dollars as a result of this change shall have their fees increased fifty percent of the amount the first renewal year and the remaining amount beginning with the second renewal period. New licensees obtaining a license after July 1, 1998, must pay the full amount of four hundred dollars.

(b) The annual fees in (a) of this subsection are waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (2)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (2)(b).

(c) The waivers in (b) of this subsection do not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(3)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove from the liquor stocks at the licensed premises, only those types of liquor that are authorized under the on-premises license privileges for sale and service at event locations at a specified date and, except as provided in subsection (4) of this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or

invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with a catering endorsement must, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee must provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on the premises of another not licensed by the board so long as there is a written agreement between the licensee and the other party to provide for ongoing catering services, the agreement contains no exclusivity clauses regarding the alcoholic beverages to be served, and the agreement is filed with the board.

(d) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee. A duplicate license may be issued for each additional premises. A license fee of twenty dollars is required for such duplicate licenses.

(4) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises and may store liquor at such premises under conditions established by the board under the following conditions:

(a) Agreements between the domestic winery and the retail licensee must be in writing, contain no exclusivity clauses regarding the alcoholic beverages to be served, and be filed with the board; and

(b) The domestic winery and the retail licensee may be separately contracted and compensated by the persons sponsoring the event for their respective services.

(5) The holder of this license or its manager may furnish beer or wine to the licensee's employees free of charge as may be required for use in connection with instruction on beer and wine. The instruction may include the history, nature, values, and characteristics of beer or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling beer or wine. The tavern licensee must use the beer or wine it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the tavern licensee.

(6) Any person serving liquor at a catered event on behalf of a licensee with a caterer's endorsement under this section must be an employee of the licensee and must possess a class 12 alcohol server permit as required under RCW 66.20.310.

(7) The board may issue rules as necessary to implement the requirements of this section.

Sec. 8. RCW 66.24.350 and 1997 c 321 s 20 are each amended to read as follows:

(1) There shall be a beer retailer's license to be designated as a snack bar license to sell beer by the opened bottle or can at retail, for consumption upon

the premises only, such license to be issued to places where the sale of beer is not the principal business conducted; fee one hundred twenty-five dollars per year.

(2)(a) The annual fee in subsection (1) of this section is waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (2)(a); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (2)(a).

(b) The waiver in (a) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(c) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (a) of this subsection for the reasons described in (b) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

Sec. 9. RCW 66.24.420 and 2009 c 271 s 7 are each amended to read as follows:

(1) The spirits, beer, and wine restaurant license shall be issued in accordance with the following schedule of annual fees:

(a) The annual fee for a spirits, beer, and wine restaurant license shall be graduated according to the dedicated dining area and type of service provided as follows:

Less than 50% dedicated dining area	\$2,000
50% or more dedicated dining area	\$1,600
Service bar only	\$1,000

(b) The annual fee for the license when issued to any other spirits, beer, and wine restaurant licensee outside of incorporated cities and towns shall be prorated according to the calendar quarters, or portion thereof, during which the licensee is open for business, except in case of suspension or revocation of the license.

(c) Where the license shall be issued to any corporation, association or person operating a bona fide restaurant in an airport terminal facility providing service to transient passengers with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place. The holder of a master license for a restaurant in an airport terminal facility must maintain in a substantial manner at least one place

on the premises for preparing, cooking, and serving of complete meals, and such food service shall be available on request in other licensed places on the premises. An additional license fee of twenty-five percent of the annual master license fee shall be required for such duplicate licenses.

(d) Where the license shall be issued to any corporation, association, or person operating dining places at a publicly or privately owned civic or convention center with facilities for sports, entertainment, or conventions, or a combination thereof, with more than one place where liquor is to be dispensed and sold, such license shall be issued upon the payment of the annual fee, which shall be a master license and shall permit such sale within and from one such place. Such license may be extended to additional places on the premises at the discretion of the board and a duplicate license may be issued for each such additional place. The holder of a master license for a dining place at such a publicly or privately owned civic or convention center must maintain in a substantial manner at least one place on the premises for preparing, cooking, and serving of complete meals, and food service shall be available on request in other licensed places on the premises. An additional license fee of ten dollars shall be required for such duplicate licenses.

(e) The annual fees in this subsection (1) are waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(e); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(e).

(f) The waivers in (e) of this subsection do not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(g) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (e) of this subsection for the reasons described in (f) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2) The board, so far as in its judgment is reasonably possible, shall confine spirits, beer, and wine restaurant licenses to the business districts of cities and towns and other communities, and not grant such licenses in residential districts, nor within the immediate vicinity of schools, without being limited in the administration of this subsection to any specific distance requirements.

(3) The board shall have discretion to issue spirits, beer, and wine restaurant licenses outside of cities and towns in the state of Washington. The purpose of this subsection is to enable the board, in its discretion, to license in areas outside of cities and towns and other communities, establishments which are operated and maintained primarily for the benefit of tourists, vacationers and travelers,

and also golf and country clubs, and common carriers operating dining, club and buffet cars, or boats.

(4) The combined total number of spirits, beer, and wine nightclub licenses, and spirits, beer, and wine restaurant licenses issued in the state of Washington by the board, not including spirits, beer, and wine private club licenses, shall not in the aggregate at any time exceed one license for each one thousand two hundred of population in the state, determined according to the yearly population determination developed by the office of financial management pursuant to RCW 43.62.030.

(5) Notwithstanding the provisions of subsection (4) of this section, the board shall refuse a spirits, beer, and wine restaurant license to any applicant if in the opinion of the board the spirits, beer, and wine restaurant licenses already granted for the particular locality are adequate for the reasonable needs of the community.

(6)(a) The board may issue a caterer's endorsement to this license to allow the licensee to remove the liquor stocks at the licensed premises, for use as liquor for sale and service at event locations at a specified date and, except as provided in subsection (7) of this section, place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with a catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on the premises of another not licensed by the board so long as there is a written agreement between the licensee and the other party to provide for ongoing catering services, the agreement contains no exclusivity clauses regarding the alcoholic beverages to be served, and the agreement is filed with the board.

(d) The holder of this license with a caterer's endorsement may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee. A duplicate license may be issued for each additional premises. A license fee of twenty dollars shall be required for such duplicate licenses.

(7) Licensees under this section that hold a caterer's endorsement are allowed to use this endorsement on a domestic winery premises or on the premises of a passenger vessel and may store liquor at such premises under conditions established by the board under the following conditions:

(a) Agreements between the domestic winery or passenger vessel, as the case may be, and the retail licensee shall be in writing, contain no exclusivity

clauses regarding the alcoholic beverages to be served, and be filed with the board; and

(b) The domestic winery or passenger vessel, as the case may be, and the retail licensee shall be separately contracted and compensated by the persons sponsoring the event for their respective services.

Sec. 10. RCW 66.24.495 and 1997 c 321 s 33 are each amended to read as follows:

(1)(a) There shall be a license to be designated as a nonprofit arts organization license. This shall be a special license to be issued to any nonprofit arts organization which sponsors and presents productions or performances of an artistic or cultural nature in a specific theater or other appropriate designated indoor premises approved by the board. The license shall permit the licensee to sell liquor to patrons of productions or performances for consumption on the premises at these events. The fee for the license shall be two hundred fifty dollars per annum.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2) For the purposes of this section, the term "nonprofit arts organization" means an organization which is organized and operated for the purpose of providing artistic or cultural exhibitions, presentations, or performances or cultural or art education programs, as defined in subsection (3) of this section, for viewing or attendance by the general public. The organization must be a not-for-profit corporation under chapter 24.03 RCW and managed by a governing board of not less than eight individuals none of whom is a paid employee of the organization or by a corporation sole under chapter 24.12 RCW. In addition, the corporation must satisfy the following conditions:

(a) No part of its income may be paid directly or indirectly to its members, stockholders, officers, directors, or trustees except in the form of services rendered by the corporation in accordance with its purposes and bylaws;

(b) Salary or compensation paid to its officers and executives must be only for actual services rendered, and at levels comparable to the salary or compensation of like positions within the state;

(c) Assets of the corporation must be irrevocably dedicated to the activities for which the license is granted and, on the liquidation, dissolution, or abandonment by the corporation, may not inure directly or indirectly to the benefit of any member or individual except a nonprofit organization, association, or corporation;

(d) The corporation must be duly licensed or certified when licensing or certification is required by law or regulation;

(e) The proceeds derived from sales of liquor, except for reasonable operating costs, must be used in furtherance of the purposes of the organization;

(f) Services must be available regardless of race, color, national origin, or ancestry; and

(g) The ~~((liquor control))~~ board shall have access to its books in order to determine whether the corporation is entitled to a license.

(3) The term "artistic or cultural exhibitions, presentations, or performances or cultural or art education programs" includes and is limited to:

(a) An exhibition or presentation of works of art or objects of cultural or historical significance, such as those commonly displayed in art or history museums;

(b) A musical or dramatic performance or series of performances; or

(c) An educational seminar or program, or series of such programs, offered by the organization to the general public on an artistic, cultural, or historical subject.

Sec. 11. RCW 66.24.540 and 2012 c 2 s 114 are each amended to read as follows:

(1) There is a retailer's license to be designated as a motel license. The motel license may be issued to a motel regardless of whether it holds any other class of license under this title. No license may be issued to a motel offering rooms to its guests on an hourly basis. The license authorizes the licensee to:

(a) Sell, at retail, in locked honor bars, spirits in individual bottles not to exceed fifty milliliters, beer in individual cans or bottles not to exceed twelve ounces, and wine in individual bottles not to exceed one hundred eighty-seven milliliters, to registered guests of the motel for consumption in guest rooms.

(i) Each honor bar must also contain snack foods. No more than one-half of the guest rooms may have honor bars.

(ii) All spirits to be sold under the license must be purchased from a spirits retailer or a spirits distributor licensee of the board.

(iii) The licensee must require proof of age from the guest renting a guest room and requesting the use of an honor bar. The guest must also execute an affidavit verifying that no one under twenty-one years of age has access to the spirits, beer, and wine in the honor bar.

(b) Provide without additional charge, to overnight guests of the motel, spirits, beer, and wine by the individual serving for on-premises consumption at a specified regular date, time, and place as may be fixed by the board. Self-service by attendees is prohibited. All spirits, beer, and wine service must be done by an alcohol server as defined in RCW 66.20.300 and comply with RCW 66.20.310.

(2)(a) The annual fee for a motel license is five hundred dollars.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (2)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (2)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(3) For the purposes of this section, "motel" means a transient accommodation licensed under chapter 70.62 RCW.

Sec. 12. RCW 66.24.570 and 2011 c 119 s 205 are each amended to read as follows:

(1)(a) There is a license for sports entertainment facilities to be designated as a sports entertainment facility license to sell beer, wine, and spirits at retail, for consumption upon the premises only, the license to be issued to the entity providing food and beverage service at a sports entertainment facility as defined in this section. The cost of the license is two thousand five hundred dollars per annum.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they

have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2) For purposes of this section, a sports entertainment facility includes a publicly or privately owned arena, coliseum, stadium, or facility where sporting events are presented for a price of admission. The facility does not have to be exclusively used for sporting events.

(3) The board may impose reasonable requirements upon a licensee under this section, such as requirements for the availability of food and victuals including but not limited to hamburgers, sandwiches, salads, or other snack food. The board may also restrict the type of events at a sports entertainment facility at which beer, wine, and spirits may be served. When imposing conditions for a licensee, the board must consider the seating accommodations, eating facilities, and circulation patterns in such a facility, and other amenities available at a sports entertainment facility.

(4)(a) The board may issue a caterer's endorsement to the license under this section to allow the licensee to remove from the liquor stocks at the licensed premises, for use as liquor for sale and service at event locations at a specified date and place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived. Cost of the endorsement is three hundred fifty dollars.

(b) The holder of this license with catering endorsement shall, if requested by the board, notify the board or its designee of the date, time, place, and location of any catered event. Upon request, the licensee shall provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(5) The board may issue an endorsement to the beer, wine, and spirits sports entertainment facility license that allows the holder of a beer, wine, and spirits sports entertainment facility license to sell for off-premises consumption wine vinted and bottled in the state of Washington and carrying a label exclusive to the license holder selling the wine. Spirits and beer may not be sold for off-premises consumption under this section. The annual fee for the endorsement under this section is one hundred twenty dollars.

(6)(a) A licensee and an affiliated business may enter into arrangements with a manufacturer, importer, or distributor for brand advertising at the sports entertainment facility or promotion of events held at the sports entertainment facility, with a capacity of five thousand people or more. The financial arrangements providing for the brand advertising or promotion of events shall not be used as an inducement to purchase the products of the manufacturer, importer, or distributor entering into the arrangement nor shall it result in the exclusion of brands or products of other companies.

(b) The arrangements allowed under this subsection (6) are an exception to arrangements prohibited under RCW 66.28.305. The board shall monitor the impacts of these arrangements. The board may conduct audits of the licensee and

the affiliated business to determine compliance with this subsection (6). Audits may include but are not limited to product selection at the facility; purchase patterns of the licensee; contracts with the liquor manufacturer, importer, or distributor; and the amount allocated or used for liquor advertising by the licensee, affiliated business, manufacturer, importer, or distributor under the arrangements.

(c) The board shall report to the appropriate committees of the legislature by December 30, 2008, and biennially thereafter, on the impacts of arrangements allowed between sports entertainment licensees and liquor manufacturers, importers, and distributors for brand advertising and promotion of events at the facility.

Sec. 13. RCW 66.24.580 and 2011 c 119 s 206 are each amended to read as follows:

(1) A public house license allows the licensee:

(a) To annually manufacture no less than two hundred fifty gallons and no more than two thousand four hundred barrels of beer on the licensed premises;

(b) To sell product, that is produced on the licensed premises, at retail on the licensed premises for consumption on the licensed premises;

(c) To sell beer or wine not of its own manufacture for consumption on the licensed premises if the beer or wine has been purchased from a licensed beer or wine wholesaler;

(d) To apply for and, if qualified and upon the payment of the appropriate fee, be licensed as a spirits, beer, and wine restaurant to do business at the same location. This fee is in addition to the fee charged for the basic public house license.

(2) RCW 66.28.305 applies to a public house license.

(3) A public house licensee must pay all applicable taxes on production as are required by law, and all appropriate taxes must be paid for any product sold at retail on the licensed premises.

(4) The employees of the licensee must comply with the provisions of mandatory server training in RCW 66.20.300 through 66.20.350.

(5) The holder of a public house license may not hold a wholesaler's or importer's license, act as the agent of another manufacturer, wholesaler, or importer, or hold a brewery or winery license.

(6)(a) The annual license fee for a public house is one thousand dollars.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (6)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (6)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where

business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(7) The holder of a public house license may hold other licenses at other locations if the locations are approved by the board.

(8) Existing holders of annual retail liquor licenses may apply for and, if qualified, be granted a public house license at one or more of their existing liquor licensed locations without discontinuing business during the application or construction stages.

Sec. 14. RCW 66.24.590 and 2012 c 2 s 115 are each amended to read as follows:

(1) There is a retailer's license to be designated as a hotel license. No license may be issued to a hotel offering rooms to its guests on an hourly basis. Food service provided for room service, banquets or conferences, or restaurant operation under this license must meet the requirements of rules adopted by the board.

(2) The hotel license authorizes the licensee to:

(a) Sell spirituous liquor, beer, and wine, by the individual glass, at retail, for consumption on the premises, including mixed drinks and cocktails compounded and mixed on the premises;

(b) Sell, at retail, from locked honor bars, in individual units, spirits not to exceed fifty milliliters, beer in individual units not to exceed twelve ounces, and wine in individual bottles not to exceed three hundred eighty-five milliliters, to registered guests of the hotel for consumption in guest rooms. The licensee must require proof of age from the guest renting a guest room and requesting the use of an honor bar. The guest must also execute an affidavit verifying that no one under twenty-one years of age will have access to the spirits, beer, and wine in the honor bar;

(c) Provide without additional charge, to overnight guests, spirits, beer, and wine by the individual serving for on-premises consumption at a specified regular date, time, and place as may be fixed by the board. Self-service by attendees is prohibited;

(d) Sell beer, including strong beer, wine, or spirits, in the manufacturer's sealed container or by the individual drink to guests through room service, or through service to occupants of private residential units which are part of the buildings or complex of buildings that include the hotel;

(e) Sell beer, including strong beer, spirits, or wine, in the manufacturer's sealed container at retail sales locations within the hotel premises;

(f) Sell beer to a purchaser in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap in the restaurant area by the licensee at the time of sale;

(g) Sell for on or off-premises consumption, including through room service and service to occupants of private residential units managed by the hotel, wine carrying a label exclusive to the hotel license holder;

(h) Place in guest rooms at check-in, a complimentary bottle of liquor in a manufacturer-sealed container, and make a reference to this service in promotional material.

(3) If all or any facilities for alcoholic beverage service and the preparation, cooking, and serving of food are operated under contract or joint venture agreement, the operator may hold a license separate from the license held by the operator of the hotel. Food and beverage inventory used in separate licensed operations at the hotel may not be shared and must be separately owned and stored by the separate licensees.

(4) All spirits to be sold under this license must be purchased from a spirits retailer or spirits distributor licensee of the board.

(5) All ~~((on-premise [on-premises]))~~ on-premises alcoholic beverage service must be done by an alcohol server as defined in RCW 66.20.300 and must comply with RCW 66.20.310.

(6)(a) The hotel license allows the licensee to remove from the liquor stocks at the licensed premises, liquor for sale and service at event locations at a specified date and place not currently licensed by the board. If the event is open to the public, it must be sponsored by a society or organization as defined by RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined by RCW 66.24.375 is waived.

(b) The holder of this license must, if requested by the board, notify the board or its designee of the date, time, place, and location of any event. Upon request, the licensee must provide to the board all necessary or requested information concerning the society or organization that will be holding the function at which the endorsed license will be utilized.

(c) Licensees may cater events on a domestic winery, brewery, or distillery premises.

(7) The holder of this license or its manager may furnish spirits, beer, or wine to the licensee's employees who are twenty-one years of age or older free of charge as may be required for use in connection with instruction on spirits, beer, and wine. The instruction may include the history, nature, values, and characteristics of spirits, beer, or wine, the use of wine lists, and the methods of presenting, serving, storing, and handling spirits, beer, or wine. The licensee must use the liquor it obtains under its license for the sampling as part of the instruction. The instruction must be given on the premises of the licensee.

(8) Minors may be allowed in all areas of the hotel where liquor may be consumed; however, the consumption must be incidental to the primary use of the area. These areas include, but are not limited to, tennis courts, hotel lobbies, and swimming pool areas. If an area is not a mixed use area, and is primarily used for alcohol service, the area must be designated and restricted to access by persons of lawful age to purchase liquor.

(9)(a) The annual fee for this license is two thousand dollars.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (9)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (9)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(10) As used in this section, "hotel," "spirits," "beer," and "wine" have the meanings defined in RCW 66.24.410 and 66.04.010.

Sec. 15. RCW 66.24.600 and 2009 c 271 s 1 are each amended to read as follows:

(1) There shall be a spirits, beer, and wine nightclub license to sell spirituous liquor by the drink, beer, and wine at retail, for consumption on the licensed premises.

(2) The license may be issued only to a person whose business includes the sale and service of alcohol to the person's customers, has food sales and service incidental to the sale and service of alcohol, and has primary business hours between 9:00 p.m. and 2:00 a.m.

(3) Minors may be allowed on the licensed premises but only in areas where alcohol is not served or consumed.

(4)(a) The annual fee for this license is two thousand dollars. The fee for the license shall be reviewed from time to time and set at such a level sufficient to defray the cost of licensing and enforcing this licensing program. The fee shall be fixed by rule adopted by the board in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (4)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (4)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(5) Local governments may petition the board to request that further restrictions be imposed on a spirits, beer, and wine nightclub license in the interest of public safety. Examples of further restrictions a local government may request are: No minors allowed on the entire premises, submitting a security plan, or signing a good neighbor agreement with the local government.

(6) The total number of (~~spirits~~ ~~[spirits]~~) spirits, beer, and wine nightclub licenses are subject to the requirements of RCW 66.24.420(4). However, the board shall refuse a spirits, beer, and wine nightclub license to any applicant if the board determines that the spirits, beer, and wine nightclub licenses already granted for the particular locality are adequate for the reasonable needs of the community.

(7) The board may adopt rules to implement this section.

Sec. 16. RCW 66.24.650 and 2013 c 219 s 1 are each amended to read as follows:

(1)(a) There is a theater license to sell beer, including strong beer, or wine, or both, at retail, for consumption on theater premises. The annual fee is four hundred dollars for a beer and wine theater license.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2) If the theater premises is to be frequented by minors, an alcohol control plan must be submitted to the board at the time of application. The alcohol control plan must be approved by the board, and be prominently posted on the premises, prior to minors being allowed.

(3) For the purposes of this section:

(a) "Alcohol control plan" means a written, dated, and signed plan submitted to the board by an applicant or licensee for the entire theater premises, or rooms or areas therein, that shows where and when alcohol is permitted, where and when minors are permitted, and the control measures used to ensure that minors are not able to obtain alcohol or be exposed to environments where drinking alcohol predominates.

(b) "Theater" means a place of business where motion pictures or other primarily nonparticipatory entertainment are shown, and includes only theaters with up to four screens.

(4) The board must adopt rules regarding alcohol control plans and necessary control measures to ensure that minors are not able to obtain alcohol or be exposed to areas where drinking alcohol predominates. All alcohol control plans must include a requirement that any person involved in the serving of beer and/or wine must have completed a mandatory alcohol server training program.

(5)(a) A licensee that is an entity that is exempt from taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended as of January 1, 2013, may enter into arrangements with a beer or wine manufacturer, importer, or distributor for brand advertising at the theater or promotion of events held at the theater. The financial arrangements providing for the brand advertising or promotion of events may not be used as an inducement to purchase the products of the manufacturer, importer, or distributor entering into the arrangement and such arrangements may not result in the exclusion of brands or products of other companies.

(b) The arrangements allowed under this subsection (5) are an exception to arrangements prohibited under RCW 66.28.305. The board must monitor the impacts of these arrangements. The board may conduct audits of a licensee and the affiliated business to determine compliance with this subsection (5). Audits may include, but are not limited to: Product selection at the facility; purchase patterns of the licensee; contracts with the beer or wine manufacturer, importer, or distributor; and the amount allocated or used for wine or beer advertising by the licensee, affiliated business, manufacturer, importer, or distributor under the arrangements.

(6) The maximum penalties prescribed by the board in WAC 314-29-020 relating to fines and suspensions are double for violations involving minors or the failure to follow the alcohol control plan with respect to theaters licensed under this section.

Sec. 17. RCW 66.24.655 and 2013 c 237 s 1 are each amended to read as follows:

(1)(a) There is a theater license to sell spirits, beer, including strong beer, or wine, or all, at retail, for consumption on theater premises. A spirits, beer, and wine theater license may be issued only to theaters that have no more than one hundred twenty seats per screen and that are maintained in a substantial manner as a place for preparing, cooking, and serving complete meals and providing tabletop accommodations for in-theater dining. Requirements for complete meals are the same as those adopted by the board in rules pursuant to chapter 34.05 RCW for a spirits, beer, and wine restaurant license authorized by RCW 66.24.400. The annual fee for a spirits, beer, and wine theater license is two thousand dollars.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (1)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (1)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(2) If the theater premises is to be frequented by minors, an alcohol control plan must be submitted to the board at the time of application. The alcohol control plan must be approved by the board and be prominently posted on the premises, prior to minors being allowed.

(3) For the purposes of this section:

(a) "Alcohol control plan" means a written, dated, and signed plan submitted to the board by an applicant or licensee for the entire theater premises, or rooms or areas therein, that shows where and when alcohol is permitted, where and when minors are permitted, and the control measures used to ensure that minors are not able to obtain alcohol or be exposed to environments where drinking alcohol predominates.

(b) "Theater" means a place of business where motion pictures or other primarily nonparticipatory entertainment are shown.

(4) The board must adopt rules regarding alcohol control plans and necessary control measures to ensure that minors are not able to obtain alcohol or be exposed to areas where drinking alcohol predominates. All alcohol control plans must include a requirement that any person involved in the serving of spirits, beer, and/or wine must have completed a mandatory alcohol server training program.

(5)(a) A licensee that is an entity that is exempt from taxation under Title 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended as of January 1, 2013, may enter into arrangements with a spirits, beer, or wine manufacturer, importer, or distributor for brand advertising at the theater or promotion of events held at the theater. The financial arrangements providing for the brand advertising or promotion of events may not be used as an inducement to purchase the products of the manufacturer, importer, or distributor entering into the arrangement and such arrangements may not result in the exclusion of brands or products of other companies.

(b) The arrangements allowed under this subsection (5) are an exception to arrangements prohibited under RCW 66.28.305. The board must monitor the impacts of these arrangements. The board may conduct audits of a licensee and the affiliated business to determine compliance with this subsection (5). Audits may include, but are not limited to: Product selection at the facility; purchase patterns of the licensee; contracts with the spirits, beer, or wine manufacturer, importer, or distributor; and the amount allocated or used for spirits, beer, or wine advertising by the licensee, affiliated business, manufacturer, importer, or distributor under the arrangements.

(6) The maximum penalties prescribed by the board in WAC 314-29-020 relating to fines and suspensions are double for violations involving minors or the failure to follow the alcohol control plan with respect to theaters licensed under this section.

Sec. 18. RCW 66.24.680 and 2014 c 78 s 1 are each amended to read as follows:

(1) There shall be a license to be designated as a senior center license. This shall be a license issued to a nonprofit organization whose primary service is providing recreational and social activities for seniors on the licensed premises. This license shall permit the licensee to sell spirits by the individual glass, including mixed drinks and cocktails mixed on the premises only, beer and wine, at retail for consumption on the premises.

(2) To qualify for this license, the applicant entity must:

(a) Be a nonprofit organization under chapter 24.03 RCW;

(b) Be open at times and durations established by the board; and

(c) Provide limited food service as defined by the board.

(3) All alcohol servers must have a valid mandatory alcohol server training permit.

(4) The board shall adopt rules to implement this section.

(5)(a) The annual fee for this license shall be seven hundred twenty dollars.

(b) The annual fee in (a) of this subsection is waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (5)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (5)(b).

(c) The waiver in (b) of this subsection does not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list

must be received by the department of revenue no later than 15 calendar days after the request is made.

Sec. 19. RCW 66.24.690 and 2014 c 29 s 1 are each amended to read as follows:

(1) There shall be a caterer's license to sell spirits, beer, and wine, by the individual serving, at retail, for consumption on the premises at an event location that is either owned, leased, or operated either by the caterer or the sponsor of the event for which catering services are being provided. If the event is open to the public, it must be sponsored by a society or organization as defined in RCW 66.24.375. If attendance at the event is limited to members or invited guests of the sponsoring individual, society, or organization, the requirement that the sponsor must be a society or organization as defined in RCW 66.24.375 is waived. The licensee must serve food as required by rules of the board.

(2)(a) The annual fee is two hundred dollars for the beer license, two hundred dollars for the wine license, or four hundred dollars for a combination beer and wine license. The annual fee for a combined beer, wine, and spirits license is one thousand dollars.

(b) The annual fees in (a) of this subsection are waived during the 12-month period beginning with the second calendar month after the effective date of this section for:

(i) Licenses that expire during the 12-month waiver period under this subsection (2)(b); and

(ii) Licenses issued to persons previously licensed under this section at any time during the 12-month period prior to the 12-month waiver period under this subsection (2)(b).

(c) The waivers in (b) of this subsection do not apply to any licensee that:

(i) Had their license suspended by the board for health and safety violations of state COVID-19 guidelines; or

(ii) Received an order of immediate restraint or citation from the department of labor and industries for allowing an employee to perform work where business activity was prohibited in violation of an emergency proclamation of the governor under RCW 43.06.220.

(d) Upon request of the department of revenue, the board and the department of labor and industries must both provide a list of persons that they have determined to be ineligible for a fee waiver under (b) of this subsection for the reasons described in (c) of this subsection. Unless otherwise agreed, any list must be received by the department of revenue no later than 15 calendar days after the request is made.

(3) The holder of this license shall notify the board or its designee of the date, time, place, and location of any catered event at which liquor will be served, sold, or consumed. The board shall create rules detailing notification requirements. Upon request, the licensee shall provide to the board all necessary or requested information concerning the individual, society, or organization that will be holding the catered function at which the caterer's liquor license will be utilized.

(4) The holder of this license may, under conditions established by the board, store liquor on other premises operated by the licensee so long as the other premises are owned or controlled by a leasehold interest by that licensee.

(5) The holder of this license is prohibited from catering events at locations that are already licensed to sell liquor under this chapter.

(6) The holder of this license is responsible for all sales, service, and consumption of alcohol at the location of the catered event.

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

Passed by the Senate February 3, 2021.

Passed by the House February 23, 2021.

Approved by the Governor February 28, 2021.

Filed in Office of Secretary of State March 1, 2021.

CHAPTER 7

[Engrossed House Bill 1121]

HIGH SCHOOL GRADUATION REQUIREMENTS--EMERGENCY WAIVERS

AN ACT Relating to the waiver of certain high school graduation requirements in times of emergency; amending RCW 28A.655.250; adding a new section to chapter 28A.230 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 recognizes that the COVID-19 pandemic illuminated the need for an emergency waiver program that would prevent students from being unduly impacted by unforeseen disruptions to coursework and assessments that are beyond the student's control. The legislature finds that a new and ongoing emergency waiver program would ensure the state is better prepared to respond to future emergencies at both the state and local levels.

(2) Therefore, the legislature intends to provide the state board of education with the authority to establish an emergency waiver program to allow school districts to waive certain graduation requirements on an individual student basis after the district makes a good faith effort to help the student meet the requirements. The legislature further intends for the emergency waiver program to be administered in an equitable manner and in furtherance of the opportunity for students to graduate ready for success in postsecondary education, gainful employment, and civic engagement, and equipped with the skills to be a lifelong learner, consistent with the purpose of the high school diploma as established in RCW 28A.230.090(1).

NEW SECTION. Sec. 2. A new section is added to chapter 28A.230 RCW to read as follows:

(1) Beginning with the class of 2020, the state board of education may authorize school districts to grant individual student emergency waivers from credit and subject area graduation requirements established in RCW 28A.230.090, the graduation pathway requirement established in RCW 28A.655.250, or both if:

(a) The student's ability to complete the requirement was impeded due to a significant disruption resulting from a local, state, or national emergency;

(b) The school district demonstrates a good faith effort to support the individual student in meeting the requirement before considering an emergency waiver;

(c) The student was reasonably expected to graduate in the school year when the emergency waiver is granted; and

(d) The student has demonstrated skills and knowledge indicating preparation for the next steps identified in their high school and beyond plan under RCW 28A.230.090 and for success in postsecondary education, gainful employment, and civic engagement.

(2) A school district that is granted emergency waiver authority under this section shall:

(a) Maintain a record of courses and requirements waived as part of the individual student record;

(b) Include a notation of waived credits on the student's high school transcript;

(c) Maintain records as necessary and as required by rule of the state board of education to document compliance with subsection (1)(b) of this section;

(d) Report student level emergency waiver data to the office of the superintendent of public instruction in a manner determined by the superintendent of public instruction in consultation with the state board of education;

(e) Determine if there is disproportionality among student subgroups receiving emergency waivers and, if so, take appropriate corrective actions to ensure equitable administration. At a minimum, the subgroups to be examined must include those referenced in RCW 28A.300.042(3). If further disaggregation of subgroups is available, the school district shall also examine those subgroups; and

(f) Adopt by resolution a written plan that describes the school district's process for students to request or decline an emergency waiver, and a process for students to appeal within the school district a decision to not grant an emergency waiver.

(3)(a) By November 1, 2021, and annually thereafter, the office of the superintendent of public instruction shall provide the data reported under subsection (2) of this section to the state board of education.

(b) The state board of education, by December 15, 2021, and within existing resources, shall provide the education committees of the legislature with a summary of the emergency waiver data provided by the office of the superintendent of public instruction under this subsection (3) for students in the graduating classes of 2020 and 2021. The summary must include the following information:

(i) The total number of emergency waivers requested and issued, by school district, including an indication of what requirement or requirements were waived. Information provided in accordance with this subsection (b)(i) must also indicate the number of students in the school district grade cohort of each student receiving a waiver; and

(ii) An analysis of any concerns regarding school district implementation, including any concerns related to school district demonstrations of good faith efforts as required by subsection (1)(b) of this section, identified by the state board of education during its review of the data.

(4) The state board of education shall adopt and may periodically revise rules for eligibility and administration of emergency waivers under this section. The rules may include:

(a) An application and approval process that allows school districts to apply to the state board of education to receive authority to grant emergency waivers in response to an emergency;

(b) Eligibility criteria for meeting the requirements established in subsection (1) of this section;

(c) Limitations on the number and type of credits that can be waived; and

(d) Expectations of the school district regarding communication with students and their parents or guardians.

(5) For purposes of this section:

(a) "Emergency" has the same meaning as "emergency or disaster" in RCW 38.52.010. "Emergency" may also include a national declaration of emergency by an authorized federal official.

(b) "School district" means any school district, charter school established under chapter 28A.710 RCW, tribal compact school operated according to the terms of state-tribal education compacts authorized under chapter 28A.715 RCW, private school, state school established under chapter 72.40 RCW, and community and technical college granting high school diplomas.

Sec. 3. RCW 28A.655.250 and 2019 c 252 s 201 are each amended to read as follows:

(1)(a) Beginning with the class of 2020, except as provided in section 2 of this act, 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. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House January 27, 2021.

Passed by the Senate February 16, 2021.

Approved by the Governor March 2, 2021.

Filed in Office of Secretary of State March 2, 2021.

CHAPTER 8

[Engrossed House Bill 1131]

PRIVATE SCHOOLS--INSTRUCTIONAL HOURS AND DAYS EMERGENCY WAIVER

AN ACT Relating to the emergency waiver of instructional hours and days at private schools; amending RCW 28A.195.040 and 28A.195.010; and declaring an emergency.

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

Sec. 1. RCW 28A.195.040 and 1990 c 33 s 177 are each amended to read as follows:

(1) The state board of education shall promulgate rules and regulations for the enforcement of RCW 28A.195.010 through 28A.195.040, 28A.225.010, and 28A.305.130, including a provision which denies approval to any school engaging in a policy of racial segregation or discrimination.

(2) The state board of education has the authority to make rules and regulations that establish the terms and conditions for allowing private schools to maintain their approval status when private schools are unable to fulfill the requirement of a full school year of one hundred eighty days or the annual average total instructional hour offering imposed by RCW 28A.195.010 due to a significant disruption resulting from an emergency.

(3) For purposes of this section, "emergency" has the same meaning as "emergency or disaster" in RCW 38.52.010. "Emergency" may also include a national declaration of emergency by an authorized federal official.

Sec. 2. RCW 28A.195.010 and 2019 c 252 s 108 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, to learn the state learning standards, or to be assessed pursuant to RCW 28A.655.070. However, private schools may choose, on a voluntary basis, to have their students learn these state learning standards or take the assessments. Minimum requirements shall be as follows:

(1) ~~(The)~~ Except as provided in RCW 28A.195.040, 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.

NEW SECTION. **Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House January 27, 2021.

Passed by the Senate February 16, 2021.

Approved by the Governor March 2, 2021.

Filed in Office of Secretary of State March 2, 2021.

CHAPTER 9

[Substitute House Bill 1151]

PUBLIC ASSISTANCE

AN ACT Relating to bolstering economic recovery by providing public assistance to households in need; amending RCW 74.04.660 and 74.04.770; adding a new section to chapter 74.04 RCW; creating a new section; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 74.04.660 and 2008 c 181 s 301 are each amended to read as follows:

The department shall establish a consolidated emergency assistance program for families with children. Assistance may be provided in accordance with this section.

(1) Benefits provided under this program shall be limited to one period of time, as determined by the department, within any consecutive twelve-month period.

(2) Benefits under this program shall be provided to alleviate emergent conditions resulting from insufficient income and resources to provide for: Food, shelter, clothing, medical care, or other necessary items, as defined by the department. Benefits may also be provided for family reconciliation services, family preservation services, home-based services, short-term substitute care in a licensed agency as defined in RCW 74.15.020, crisis nurseries, therapeutic child care, or other necessary services as defined by the department. Benefits shall be provided only in an amount sufficient to cover the cost of the specific need, subject to the limitations established in this section.

(3)(a) The department shall, by rule, establish assistance standards and eligibility criteria for this program in accordance with this section.

(b) Eligibility for benefits or services under this section does not automatically entitle a recipient to medical assistance.

(4) The department shall seek federal emergency assistance funds to supplement the state funds appropriated for the operation of this program as long

as other departmental programs are not adversely affected by the receipt of federal funds.

(5) If state funds appropriated for the consolidated emergency assistance program are exhausted, the department may discontinue the program.

(6) During a state of emergency and pursuant to an order from the governor under this subsection, benefits under this program may be extended to individuals and families without children and may be provided for more than one period of time within any consecutive 12-month period, as established in an order from the governor. Adjustments to the program under this subsection remain in effect until either the state of emergency ceases, the order expires, or the governor issues an order terminating these adjustments, whichever occurs first.

NEW SECTION. Sec. 2. A new section is added to chapter 74.04 RCW to read as follows:

(1) To assist with family-related expenses, households with children receiving food benefits under this title, who are not simultaneously receiving temporary assistance for needy families, are eligible to receive a one-time state-funded cash benefit in the final month of eligibility when the household's food benefits terminate due to exceeding the gross income limit or when the household requests voluntary closure.

(2) For households receiving a cash benefit under subsection (1) of this section, the department shall provide transitional food assistance for a period of five months when eligibility for food benefits ceases due to exceeding the gross income limit or when the household requests voluntary closure.

(3) If necessary, the department shall extend the household's food benefit certification until the end of the transition period.

(4) The amount of the cash benefit issued by the department under subsection (1) of this section must be set in accordance with available funds appropriated for this purpose.

Sec. 3. RCW 74.04.770 and 2011 1st sp.s. c 36 s 26 are each amended to read as follows:

(1) The department shall establish consolidated standards of need each fiscal year which may vary by geographical areas, program, and family size, for temporary assistance for needy families, refugee assistance, supplemental security income, and benefits under RCW 74.62.030.

(2)(a) Standards of need for temporary assistance for needy families, refugee assistance, and benefits under RCW 74.62.030 shall be based on studies of actual living costs and generally recognized inflation indices and shall include reasonable allowances for basic household needs including shelter, fuel, food, transportation, clothing, household maintenance and operations, personal maintenance, ~~((and))~~ necessary incidentals~~((:))~~, cell phone and internet, and out-of-pocket costs for child care and health care.

(b) By July 1, 2022, to ensure the standards of need reflect the current goods and services households need, the department must use an existing, broadly used national standard that meets the requirements of (a) of this subsection as the base for annual updating in subsection (1) of this section.

(c) The standard of need may take into account the economies of joint living arrangements, but unless explicitly required by federal statute, there shall not be

proration of any portion of assistance grants unless the amount of the grant standard is equal to the standard of need.

The department is authorized to establish rateable reductions and grant maximums consistent with federal law.

(3) Payment level will be equal to need or a lesser amount if rateable reductions or grant maximums are imposed. In no case shall a recipient of supplemental security income receive a state supplement less than the minimum required by federal law.

~~((The department may establish a separate standard for shelter provided at no cost.))~~

NEW SECTION. Sec. 4. 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.

NEW SECTION. Sec. 5. If specific funding for the purposes of section 2 of this act, referencing section 2 of this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, section 2 of this act is null and void.

NEW SECTION. Sec. 6. Section 2 of this act takes effect July 1, 2022.

Passed by the House February 25, 2021.

Passed by the Senate March 24, 2021.

Approved by the Governor March 31, 2021.

Filed in Office of Secretary of State March 31, 2021.

CHAPTER 10

[Engrossed Substitute House Bill 1078]

VOTER ELIGIBILITY--PERSONS CONVICTED OF A FELONY OFFENSE

AN ACT Relating to restoring voter eligibility for all persons convicted of a felony offense who are not in total confinement under the jurisdiction of the department of corrections; amending RCW 29A.08.520, 29A.08.230, 29A.40.091, 10.64.140, 2.36.010, and 72.09.275; adding a new section to chapter 29A.04 RCW; and providing an effective date.

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

Sec. 1. RCW 29A.08.520 and 2013 c 11 s 19 are each amended to read as follows:

(1) For a felony conviction in a Washington state court, the right to vote is ~~((provisionally))~~ automatically restored as long as the person is not ~~((under the authority))~~ serving a sentence of total confinement under the jurisdiction of the department of corrections. For a felony conviction in a federal court or any state court other than a Washington state court, the right to vote is automatically restored as long as the person is no longer incarcerated. A person who has been convicted of a felony and is either sentenced to a term of total confinement under the jurisdiction of the department of corrections or otherwise incarcerated as provided for in this subsection must reregister to vote prior to voting.

~~(2)((a) Once the right to vote has been provisionally restored, the sentencing court may revoke the provisional restoration of voting rights if the sentencing court determines that a person has willfully failed to comply with the terms of his or her order to pay legal financial obligations.~~

~~(b) If the person has failed to make three payments in a twelve-month period and the county clerk or restitution recipient requests, the prosecutor shall seek revocation of the provisional restoration of voting rights from the court.~~

~~(c) To the extent practicable, the prosecutor and county clerk shall inform a restitution recipient of the recipient's right to ask for the revocation of the provisional restoration of voting rights.~~

~~(3) If the court revokes the provisional restoration of voting rights, the revocation shall remain in effect until, upon motion by the person whose provisional voting rights have been revoked, the person shows that he or she has made a good faith effort to pay as defined in RCW 10.82.090.~~

~~(4) The county clerk shall enter into a database maintained by the administrator for the courts the names of all persons whose provisional voting rights have been revoked, and update the database for any person whose voting rights have subsequently been restored pursuant to subsection (6) of this section.~~

~~(5))~~ At least ~~((twice a year))~~ once a month, the secretary of state shall compare the list of registered voters to a list of ~~((felons))~~ persons who are not eligible to vote as provided in subsection~~((s))~~ (1) ~~((and (3)))~~ of this section. If a registered voter is not eligible to vote as provided in this section, the secretary of state or county auditor shall confirm the match through a date of birth comparison and suspend the voter registration from the official state voter registration list. The secretary of state or county auditor shall send to the person at his or her last known voter registration address and at the department of corrections, if the person is ~~((under the authority))~~ serving a sentence of total confinement under the jurisdiction of the department, a notice of the proposed cancellation and an explanation of the requirements for ~~((provisionally and permanently))~~ restoring the right to vote and reregistering. To the extent possible, the secretary of state shall time the comparison required by this subsection to allow notice and cancellation of voting rights for ineligible voters prior to a primary or general election.

~~((6) The right to vote may be permanently restored by one of the following for each felony conviction:~~

~~(a) A certificate of discharge issued by the sentencing court, as provided in RCW 9.94A.637;~~

~~(b) A court order restoring the right, as provided in RCW 9.92.066;~~

~~(c) A final order of discharge issued by the indeterminate sentence review board, as provided in RCW 9.96.050; or~~

~~(d) A certificate of restoration issued by the governor, as provided in RCW 9.96.020.~~

~~(7))~~ (3) For the purposes of this section, ~~((a person is under the authority of the department of corrections if the person is:~~

~~(a) Serving))~~ a sentence of total confinement ~~((in the custody of the department of corrections; or~~

~~(b) Subject to community custody as defined in RCW 9.94A.030))~~ does not include confinement imposed as a sanction for a community custody violation under RCW 9.94A.633(1).

Sec. 2. RCW 29A.08.230 and 2020 c 208 s 4 are each amended to read as follows:

For all voter registrations, the registrant shall sign the following oath:

"I declare that the facts on this voter registration form are true. I am a citizen of the United States, I will have lived at this address in Washington for at least thirty days immediately before the next election at which I vote, and I am at least sixteen years old(\geq). I am not disqualified from voting due to a court order, and I am not (~~under~~) currently serving a sentence of total confinement under the jurisdiction of the department of corrections (~~(supervision)~~) for a Washington felony conviction, and I am not currently incarcerated for a federal or out-of-state felony conviction."

Sec. 3. RCW 29A.40.091 and 2020 c 12 s 1 are each amended to read as follows:

(1) The county auditor shall send each voter a ballot, a security envelope in which to conceal the ballot after voting, a larger envelope in which to return the security envelope, a declaration that the voter must sign, and instructions on how to obtain information about the election, how to mark the ballot, and how to return the ballot to the county auditor. The calendar date of the election must be prominently displayed in bold type, twenty-point font or larger, on the envelope sent to the voter containing the ballot and other materials listed in this subsection:

- (a) For all general elections in 2020 and after;
- (b) For all primary elections in 2021 and after; and
- (c) For all elections in 2022 and after.

(2) The voter must swear under penalty of perjury that he or she meets the qualifications to vote, and has not voted in any other jurisdiction at this election. The declaration must clearly inform the voter that it is illegal to vote if he or she is not a United States citizen; it is illegal to vote if he or she (~~(has been convicted of a felony and has not had his or her voting rights restored)~~) is serving a sentence of total confinement under the jurisdiction of the department of corrections for a felony conviction or is currently incarcerated for a federal or out-of-state felony conviction; and it is illegal to cast a ballot or sign a ballot declaration on behalf of another voter. The ballot materials must provide space for the voter to sign the declaration, indicate the date on which the ballot was voted, and include a telephone number.

(3) For overseas and service voters, the signed declaration constitutes the equivalent of a voter registration. Return envelopes for overseas and service voters must enable the ballot to be returned postage free if mailed through the United States postal service, United States armed forces postal service, or the postal service of a United States foreign embassy under 39 U.S.C. 3406.

(4) The voter must be instructed to either return the ballot to the county auditor no later than 8:00 p.m. the day of the election or primary, or mail the ballot to the county auditor with a postmark no later than the day of the election or primary. Return envelopes for all election ballots must include prepaid postage. Service and overseas voters must be provided with instructions and a privacy sheet for returning the ballot and signed declaration by fax or email. A voted ballot and signed declaration returned by fax or email must be received by 8:00 p.m. on the day of the election or primary.

(5) The county auditor's name may not appear on the security envelope, the return envelope, or on any voting instructions or materials included with the ballot if he or she is a candidate for office during the same year.

(6) For purposes of this section, "prepaid postage" means any method of return postage paid by the county or state.

NEW SECTION. Sec. 4. A new section is added to chapter 29A.04 RCW to read as follows:

"Total confinement" has the same meaning as in RCW 9.94A.030, but a sentence of total confinement does not include confinement imposed as a sanction for a community custody violation under RCW 9.94A.633(1).

Sec. 5. RCW 10.64.140 and 2009 c 325 s 5 are each amended to read as follows:

(1) When a person is convicted of a felony and sentenced to a term of total confinement under the jurisdiction of the department of corrections, the court shall require the defendant to sign a statement acknowledging that:

(a) The defendant's right to vote has been lost due to the felony conviction and sentence to a term of total confinement;

(b) If the defendant is registered to vote, the voter registration will be canceled;

(c) The right to vote is ~~((provisionally))~~ automatically restored as long as the defendant is not ~~((under the authority))~~ serving a sentence of total confinement under the jurisdiction of the department of corrections;

(d) The defendant must reregister before voting; and

~~((The provisional right to vote may be revoked if the defendant fails to comply with all the terms of his or her legal financial obligations or an agreement for the payment of legal financial obligations;~~

(f) The right to vote may be permanently restored by one of the following for each felony conviction:

(i) A certificate of discharge issued by the sentencing court, as provided in RCW 9.94A.637;

(ii) A court order issued by the sentencing court restoring the right, as provided in RCW 9.92.066;

(iii) A final order of discharge issued by the indeterminate sentence review board, as provided in RCW 9.96.050; or

(iv) A certificate of restoration issued by the governor, as provided in RCW 9.96.020; and

~~(g))~~ Voting before the right is restored is a class C felony under RCW 29A.84.660.

(2) For the purposes of this section ~~((, a person is under the authority of the department of corrections if the person is:~~

~~(a) Serving a));~~

(a) A sentence of total confinement ((in the custody of the department of corrections; or

(b) Subject to community custody as defined in RCW 9.94A.030)) does not include confinement imposed as a sanction for a community custody violation under RCW 9.94A.633(1).

(b) "Total confinement" has the same meaning as in RCW 9.94A.030.

Sec. 6. RCW 2.36.010 and 2019 c 41 s 1 are each amended to read as follows:

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

(1) A jury is a body of persons temporarily selected from the qualified inhabitants of a particular district, and invested with power—

(a) To present or indict a person for a public offense.

(b) To try a question of fact.

(2) "Court" when used without further qualification means any superior court or court of limited jurisdiction in the state of Washington.

(3) "Judge" means every judicial officer authorized to hold or preside over a court. For purposes of this chapter "judge" does not include court commissioners or referees.

(4) "Juror" means any person summoned for service on a petit jury, grand jury, or jury of inquest as defined in this chapter.

(5) "Grand jury" means those twelve persons impaneled by a superior court to hear, examine, and investigate evidence concerning criminal activity and corruption.

(6) "Petit jury" means a body of persons twelve or less in number in the superior court and six in number in courts of limited jurisdiction, drawn by lot from the jurors in attendance upon the court at a particular session, and sworn to try and determine a question of fact.

(7) "Jury of inquest" means a body of persons six or fewer in number, but not fewer than four persons, summoned before the coroner or other ministerial officer, to inquire of particular facts.

(8) "Jury source list" means the list of all registered voters for any county, merged with a list of licensed drivers and identicard holders who reside in the county. The list shall specify each person's name and residence address and conform to the methodology and standards set pursuant to the provisions of RCW 2.36.054 or by supreme court rule. The list shall be filed with the superior court by the county auditor.

(9) "Master jury list" means the list of prospective jurors from which jurors summoned to serve will be randomly selected. The master jury list shall be either randomly selected from the jury source list or may be an exact duplicate of the jury source list.

(10) "Jury term" means a period of time of one or more days, not exceeding two weeks for counties with a jury source list that has at least seventy thousand names and one month for counties with a jury source list of less than seventy thousand names, during which summoned jurors must be available to report for juror service.

(11) "Juror service" means the period of time a juror is required to be present at the court facility. This period of time may not extend beyond the end of the jury term, and may not exceed one week for counties with a jury source list that has at least seventy thousand names, and two weeks for counties with a jury source list of less than seventy thousand names, except to complete a trial to which the juror was assigned during the service period.

(12) "Jury panel" means those persons randomly selected for jury service for a particular jury term.

(13) "Civil rights restored" means a person's right to vote has been ~~((provisionally or permanently))~~ automatically restored prior to reporting for jury service.

Sec. 7. RCW 72.09.275 and 2019 c 43 s 1 are each amended to read as follows:

(1) The department shall notify ~~((an inmate))~~ a person, in writing, of the process for ~~((provisional and permanent))~~ restoration of voting rights, as described in RCW 29A.08.520, prior to the ~~((termination of authority of the department over the inmate))~~ release from, or transfer to partial confinement from, total confinement under the jurisdiction of the department of corrections unless a person is being released from a department of corrections facility to an out-of-state jurisdiction or federal detention center, pursuant to a felony conviction. The department shall also provide the ~~((inmate))~~ person with:

~~((1))~~ (a) A voter registration form and written instructions for returning the form by mail; and

~~((2))~~ (b) Written information regarding registering to vote in person and electronically.

(2) For purposes of this section:

(a) A sentence of total confinement does not include confinement imposed as a sanction for a community custody violation under RCW 9.94A.633(1).

(b) "Total confinement" has the same meaning as in RCW 9.94A.030.

NEW SECTION. Sec. 8. This act takes effect January 1, 2022.

Passed by the House February 24, 2021.

Passed by the Senate March 24, 2021.

Approved by the Governor April 7, 2021.

Filed in Office of Secretary of State April 7, 2021.

CHAPTER 11

[Substitute House Bill 1114]

URBAN HEAT ISLAND EFFECTS--UTILITY MITIGATION

AN ACT Relating to encouraging utility mitigation of urban heat island effects; amending RCW 35.92.355, 35.92.390, 54.16.400, 80.28.260, and 80.28.300; adding a new section to chapter 54.16 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. (1) The legislature acknowledges the scientific consensus that there is a well-documented problem of urban heat islands. The buildings, roads, and infrastructure that comprise urban environments make cities hotter than surrounding rural areas. Concrete, asphalt, and shingled roofs can get much hotter than vegetated areas, causing surface temperatures in cities to be several degrees hotter in the midday than in rural areas. At night, these same materials release heat more slowly, keeping urban air temperatures higher than overnight temperatures in most rural areas. Cities tend to have fewer trees and less vegetation, resulting in a deficit of shade to keep areas cool. Cities also have more industrial heat sources, including cars and air conditioners.

(2) Cities tend to have many more extremely hot days each year, on average, than nearby rural areas. According to one recent study, over the past 10 years, cities had an average of at least eight more days over 90 degrees Fahrenheit each summer, compared to nearby rural areas. The difference between urban and surrounding rural temperatures is also widening; temperatures have been rising in urban areas faster than in the surrounding rural areas since 1970. Studies also conclude that areas historically redlined as a result of housing policy experience higher air temperatures than urban areas outside of redlined areas.

(3) The legislature finds that the phenomenon of urban heat island impact is detrimental to several significant and long-standing state policy goals, including the promotion of human health, energy conservation, and preserving the water quality that sustains salmon. The legislature also finds that the urban heat island effects exacerbate the impacts of climate change. It is well understood that higher urban summer temperatures pose serious human health risks and that these health risks are inequitably distributed. Hotter urban summers can lead to increased energy demands to cool buildings, which runs counter to long-standing state policy of promoting energy conservation. Studies have also documented the impact of urban heat islands on the temperature of streams. Streams draining through urban heat islands tend to be hotter than rural and forested streams because of warmer urban air and ground temperatures, paved surfaces, and decreased riparian canopy. Urban infrastructure routes runoff over hot impervious surfaces and through storm drains directly into streams and can lead to rapid, dramatic increases in temperature, which can be lethal for aquatic life.

(4) The legislature recognizes that this problem is a clear and present danger that impacts the environment of our state. The Pacific Northwest, with its reputation for rain and temperate weather, is not immune to urban heat islands. Seattle is among the top 10 cities for most intense urban heat island effect, with greater than four degrees Fahrenheit difference between the city and nearby rural areas. Portland, Oregon was among the top 10 cities with the most intense summer nighttime heat island over the past 10 years.

(5) The legislature finds that organized shade tree and cool roof programs offered by utilities can reduce the amount of energy required to cool buildings. Energy conservation results in carbon dioxide reduction in areas where fossil fuels are part of the fuel mix that supplies the electricity. Secondary benefits of shade tree and cool roof programs are the mitigation of the urban heat island effect. Other nonenergy benefits include improvement in local and regional air quality, enhanced neighborhood aesthetics, and improved property values for program participants.

(6) From the utility perspective, incentives to implement tree planting programs represents a type of demand side management program that has a tangible economic value to the utility. This value can be quantified based on avoided supply costs of energy and capacity during high cost of summer peak load periods, or the decrease in supply costs to the utility due to reduced electrical loads.

(7) From the customers' perspective, these programs save money by reducing average summertime electricity bills. In 2008, researchers showed that the Sacramento municipal utility district tree program reduced summertime electricity bills by an average of \$25.16. Additionally, the utility's commercial cool roof program provided average energy cooling load savings of 20 percent.

(8) In consideration of the environmental, public, and customer benefits, the legislature intends to encourage policies for the state's utilities that will promote shade tree and cool roof programs to facilitate energy conservation and mitigate urban heat island impacts.

Sec. 2. RCW 35.92.355 and 1993 c 204 s 5 are each amended to read as follows:

The conservation of energy in all forms and by every possible means is found and declared to be a public purpose of highest priority. The legislature further finds and declares that all municipal corporations, quasi municipal corporations, and other political subdivisions of the state which are engaged in the generation, sale, or distribution of energy should be granted the authority to develop and carry out programs which will conserve resources, reduce waste, and encourage more efficient use of energy by consumers.

In order to establish the most effective statewide program for energy conservation, the legislature hereby encourages any company, corporation, or association engaged in selling or furnishing utility services to assist their customers in the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of energy including, but not limited to, materials and equipment installed as part of a utility cool roof program. The use of appropriate tree plantings for energy conservation is highly encouraged as part of these programs. It is the policy of the state of Washington that any tree planting program engaged in by a municipal utility where energy reduction is a goal as part of a broader energy conservation program under this section should accomplish the following:

(1) Reduce the peak-load demand for electricity in residential and commercial business areas during the summer months through direct shading of buildings provided by strategically planted trees;

(2) Reduce wintertime demand for energy in residential areas by blocking cold winds from reaching homes, which lowers interior temperatures and drives heating demand;

(3) Protect public health by removing harmful pollution from the air and prioritize in communities with environmental health disparities;

(4) Utilize the natural photosynthetic and transpiration process of trees to lower ambient temperatures and absorb carbon dioxide;

(5) Lower electric bills for residential and commercial business ratepayers by limiting electricity consumption without reducing benefits;

(6) Relieve financial and demand pressure on the utility that stems from large peak-load electricity demand;

(7) Protect water quality and public health by reducing and cooling stormwater runoff and keeping harmful pollutants from entering waterways, with special attention given to waterways vital for the preservation of threatened and endangered salmon;

(8) Ensure that trees are planted in locations that limit the amount of public funding needed to maintain public and electric infrastructure;

(9) Measure program performance in terms of the estimated present value benefit per tree planted and equitable and accessible community engagement consistent with the department of health's environmental health disparities map recommendations 12 and 13, and with the community engagement plan guidance in appendix C of the final report of the environmental justice task force established under chapter 415, Laws of 2019;

(10) Give special consideration to achieving environmental justice in goals and policies, avoid creating or worsening environmental health disparities, and make use of the department of health's environmental health disparities map to help guide engagement and actions; and

(11) Coordinate with the department of natural resources urban and community forestry program's efforts to identify areas of need related to urban tree canopy and to provide technical assistance and capacity building to encourage urban tree canopy.

Sec. 3. RCW 35.92.390 and 2008 c 299 s 19 are each amended to read as follows:

(1) Municipal utilities under this chapter are highly encouraged to provide information to their customers regarding landscaping that includes tree planting for energy conservation.

(2)(a) Municipal utilities under this chapter are highly encouraged to request voluntary donations from their customers for the purposes of urban forestry. The request may be in the form of a check-off on the billing statement or other form of request for a voluntary donation.

(b) Voluntary donations collected by municipal utilities under this section may be used by the municipal utility to:

(i) Support the development and implementation of evergreen community ordinances, as that term is defined in RCW 35.105.010, for cities, towns, or counties within their service areas; ((~~or~~))

(ii) Complete projects consistent with the model evergreen community management plans and ordinances developed under RCW 35.105.050; or

(iii) Fund a tree planting program for energy conservation that accomplishes the goals established under RCW 35.92.355.

(c) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW.

NEW SECTION. Sec. 4. A new section is added to chapter 54.16 RCW to read as follows:

The legislature encourages any public utility district to assist their customers in the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of energy including, but not limited to, materials and equipment installed as part of a utility cool roof program. The use of appropriate tree plantings for energy conservation is highly encouraged as part of these programs. It is the policy of the state of Washington that any tree planting program engaged in by a public utility district where energy reduction is a goal as part of a broader energy conservation program under this chapter should accomplish the following:

(1) Reduce the peak-load demand for electricity in residential and commercial business areas during the summer months through direct shading of buildings provided by strategically planted trees;

(2) Reduce wintertime demand for energy in residential areas by blocking cold winds from reaching homes, which lowers interior temperatures and drives heating demand;

(3) Protect public health by removing harmful pollution from the air and prioritize in communities with environmental health disparities;

(4) Utilize the natural photosynthetic and transpiration process of trees to lower ambient temperatures and absorb carbon dioxide;

(5) Lower electric bills for residential and commercial business ratepayers by limiting electricity consumption without reducing benefits;

(6) Relieve financial and demand pressure on the utility that stems from large peak-load electricity demand;

(7) Protect water quality and public health by reducing and cooling stormwater runoff and keeping harmful pollutants from entering waterways, with special attention given to waterways vital for the preservation of threatened and endangered salmon;

(8) Ensure that trees are planted in locations that limit the amount of public funding needed to maintain public and electric infrastructure;

(9) Measure program performance in terms of the estimated present value benefit per tree planted and equitable and accessible community engagement consistent with the department of health's environmental health disparities map recommendations 12 and 13, and with the community engagement plan guidance appendix C of the final report of the environmental justice task force established under chapter 415, Laws of 2019;

(10) Give special consideration to achieving environmental justice in goals and policies, avoid creating or worsening environmental health disparities, and make use of the department of health's environmental health disparities map to help guide engagement and actions; and

(11) Coordinate with the department of natural resources urban and community forestry program's efforts to identify areas of need related to urban tree canopy and to provide technical assistance and capacity building to encourage urban tree canopy.

Sec. 5. RCW 54.16.400 and 2008 c 299 s 22 are each amended to read as follows:

(1) Public utility districts may request voluntary donations from their customers for the purposes of urban forestry. The request may be in the form of a check-off on the billing statement or other form of a request for a voluntary donation.

(2) Voluntary donations collected by public utility districts under this section may be used by the public utility district to:

(a) Support the development and implementation of evergreen community ordinances, as that term is defined in RCW 35.105.010, for cities, towns, or counties within their service areas; ~~((e))~~

(b) Complete projects consistent with the model evergreen community management plans and ordinances developed under RCW 35.105.050; or

(c) Fund a tree planting program for energy conservation that accomplishes the goals established under section 4 of this act.

(3) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW.

Sec. 6. RCW 80.28.260 and 1996 c 186 s 520 are each amended to read as follows:

(1) The commission shall adopt a policy allowing an incentive rate of return on investment ~~((a) for payments made under RCW 19.27A.035 and (b))~~ for programs that improve the efficiency of energy end use if priority is given to senior citizens and low-income citizens in the course of carrying out such programs. The incentive rate of return on investments set forth in this subsection

is established by adding an increment of two percent to the rate of return on common equity permitted on the company's other investments.

(2) The commission shall consider and may adopt a policy allowing an incentive rate of return on investment in additional programs to improve the efficiency of energy end use including, but not limited to, tree planting programs and cool roof programs, or other incentive policies to encourage utility investment in such programs. Any tree planting program where energy reduction is a goal for which an electrical company seeks an incentive rate of return on investment under this subsection (2) should accomplish the following:

(a) Reduce the peak-load demand for electricity in residential and commercial business areas during the summer months through direct shading of buildings provided by strategically planted trees;

(b) Reduce wintertime demand for energy in residential areas by blocking cold winds from reaching homes, which lowers interior temperatures and drives heating demand;

(c) Protect public health by removing harmful pollution from the air and prioritize in communities with environmental health disparities;

(d) Utilize the natural photosynthetic and transpiration process of trees to lower ambient temperatures and absorb carbon dioxide;

(e) Lower electric bills for residential and commercial business ratepayers by limiting electricity consumption without reducing benefits;

(f) Relieve financial and demand pressure on the utility that stems from large peak-load electricity demand;

(g) Protect water quality and public health by reducing and cooling stormwater runoff and keeping harmful pollutants from entering waterways, with special attention given to waterways vital for the preservation of threatened and endangered salmon;

(h) Ensure that trees are planted in locations that limit the amount of public funding needed to maintain public and electric infrastructure;

(i) Measure program performance in terms of the estimated present value benefit per tree planted and equitable and accessible community engagement consistent with the department of health's environmental health disparities map recommendations 12 and 13, and with the community engagement plan guidance appendix C of the final report of the environmental justice task force established under chapter 415, Laws of 2019;

(j) Give special consideration to achieving environmental justice in goals and policies, avoid creating or worsening environmental health disparities, and make use of the department of health's environmental health disparities map to help guide engagement and actions; and

(k) Coordinate with the department of natural resources urban and community forestry program's efforts to identify areas of need related to urban tree canopy and to provide technical assistance and capacity building to encourage urban tree canopy.

(3) The commission shall consider and may adopt other policies to protect a company from a reduction of short-term earnings that may be a direct result of utility programs to increase the efficiency of energy use. These policies may include allowing a periodic rate adjustment for investments in end use efficiency or allowing changes in price structure designed to produce additional new revenue.

Sec. 7. RCW 80.28.300 and 2008 c 299 s 21 are each amended to read as follows:

(1) Gas companies and electrical companies under this chapter are highly encouraged to provide information to their customers regarding landscaping that includes tree planting for energy conservation.

(2)(a) Gas companies and electrical companies under this chapter may request voluntary donations from their customers for the purposes of urban forestry. The request may be in the form of a check-off on the billing statement or other form of a request for a voluntary donation.

(b) Voluntary donations collected by gas companies and electrical companies under this section may be used by the gas companies and electrical companies to:

(i) Support the development and implementation of evergreen community ordinances, as that term is defined in RCW 35.105.010, for cities, towns, or counties within their service areas; (~~(e)~~)

(ii) Complete projects consistent with the model evergreen community management plans and ordinances developed under RCW 35.105.050; or

(iii) Fund a tree planting program for energy conservation that accomplishes the goals established under RCW 80.28.260(2) (a) through (k).

(c) Donations received under this section do not contribute to the gross income of a light and power business or gas distribution business under chapter 82.16 RCW.

Passed by the House February 25, 2021.

Passed by the Senate March 24, 2021.

Approved by the Governor April 7, 2021.

Filed in Office of Secretary of State April 7, 2021.

CHAPTER 12

[Senate Bill 5021]

PUBLIC EMPLOYEE RETIREMENT BENEFITS--EFFECT OF EXPENDITURE REDUCTIONS

AN ACT Relating to the effect of expenditure reduction efforts on retirement benefits for public employees, including those participating in the shared work program; amending RCW 41.26.030, 41.32.010, 41.34.040, 41.35.010, 41.37.010, 41.40.010, and 43.43.120; adding a new section to chapter 41.50 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. It is the intent of the legislature that this act be curative, remedial, and retroactively applied.

Sec. 2. RCW 41.26.030 and 2020 c 107 s 6 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Accumulated contributions" means the employee's contributions made by a member, including any amount paid under RCW 41.50.165(2), plus accrued interest credited thereon.

(2) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date of retirement

of each member to pay the member's future benefits during the period of retirement.

(3) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(4)(a) "Basic salary" for plan 1 members, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for plan 2 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay. In any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) The basic salary the member would have received had such member not served in the legislature; or

(ii) Such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under (b)(i) of this subsection is greater than basic salary under (b)(ii) of this subsection shall be paid by the member for both member and employer contributions.

(5)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for plan 2 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically disabled as determined by the department, except a person who is disabled and in the full time care of a state institution, who is:

(i) A natural born child;

(ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;

(iii) A posthumous child;

(iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or

(v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or

vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(7) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(8) "Director" means the director of the department.

(9) "Disability board" for plan 1 members means either the county disability board or the city disability board established in RCW 41.26.110.

(10) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to plan 1 members.

(11) "Disability retirement" for plan 1 members, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(12) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.020.

(13) "Employee" means any law enforcement officer or firefighter as defined in subsections (17) and (19) of this section.

(14)(a) "Employer" for plan 1 members, means the legislative authority of any city, town, county, district, or regional fire protection service authority or the elected officials of any municipal corporation that employs any law enforcement officer and/or firefighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the firefighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or firefighters as defined in this chapter.

(b) "Employer" for plan 2 members, means the following entities to the extent that the entity employs any law enforcement officer and/or firefighter:

(i) The legislative authority of any city, town, county, district, public corporation, or regional fire protection service authority established under RCW 35.21.730 to provide emergency medical services as defined in RCW 18.73.030;

(ii) The elected officials of any municipal corporation;

(iii) The governing body of any other general authority law enforcement agency;

(iv) A four-year institution of higher education having a fully operational fire department as of January 1, 1996; or

(v) The department of social and health services or the department of corrections when employing firefighters serving at a prison or civil commitment center on an island.

(c) Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an "employer." The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an "employer," but is based

solely on the relationship between a government contractor's employee and an "employer" under this chapter.

(15)(a) "Final average salary" for plan 1 members, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for plan 2 members, means the monthly average of the member's basic salary for the highest consecutive sixty service credit months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(c) In calculating final average salary under (a) or (b) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer; ~~((and))~~

(ii) Any compensation forgone by a member employed by the state or a local government employer during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases; and

(iii) Any compensation forgone by a member employed by the state or a local government employer during the 2019-2021 and 2021-2023 fiscal biennia as a result of reduced work hours, mandatory leave without pay, temporary layoffs, furloughs, reductions to current pay, or other similar measures resulting from the COVID-19 budgetary crisis, if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(16) "Fire department" includes a fire station operated by the department of social and health services or the department of corrections when employing firefighters serving a prison or civil commitment center on an island.

(17) "Firefighter" means:

(a) Any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for firefighter, and who is actively employed as such;

(b) Anyone who is actively employed as a full time firefighter where the fire department does not have a civil service examination;

(c) Supervisory firefighter personnel;

(d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection (17)(d) shall not apply to plan 2 members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under subsection (14) of this section), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection (17)(e) shall not apply to plan 2 members;

(f) Any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for firefighter;

(g) Any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971, was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW; and

(h) Any person who is employed on a full-time, fully compensated basis by an employer as an emergency medical technician that meets the requirements of RCW 18.71.200 or 18.73.030(12), and whose duties include providing emergency medical services as defined in RCW 18.73.030.

(18) "General authority law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, but not including the Washington state patrol. Such an agency, department, or division is distinguished from a limited authority law enforcement agency having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor and cannabis board, and the state department of corrections. A general authority law enforcement agency under this chapter does not include a government contractor.

(19) "Law enforcement officer" beginning January 1, 1994, means any person who is commissioned and employed by an employer on a full time, fully compensated basis to enforce the criminal laws of the state of Washington generally, with the following qualifications:

(a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers;

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under subsection (14) of this section) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The provisions of this subsection (19)(d) shall not apply to plan 2 members; and

(e) The term "law enforcement officer" also includes a person employed on or after January 1, 1993, as a public safety officer or director of public safety, so long as the job duties substantially involve only either police or fire duties, or both, and no other duties in a city or town with a population of less than ten thousand. The provisions of this subsection (19)(e) shall not apply to any public safety officer or director of public safety who is receiving a retirement allowance under this chapter as of May 12, 1993.

(20) "Medical services" for plan 1 members, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses," provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopathic physician and surgeon licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

- (B) Diagnostic X-ray and laboratory examinations;
- (C) X-ray, radium, and radioactive isotopes therapy;
- (D) Anesthesia and oxygen;
- (E) Rental of iron lung and other durable medical and surgical equipment;
- (F) Artificial limbs and eyes, and casts, splints, and trusses;
- (G) Professional ambulance service when used to transport the member to or from a hospital when injured by an accident or stricken by a disease;
- (H) Dental charges incurred by a member who sustains an accidental injury to his or her teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;
- (I) Nursing home confinement or hospital extended care facility;
- (J) Physical therapy by a registered physical therapist;
- (K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;
- (L) An optometrist licensed under the provisions of chapter 18.53 RCW.

(21) "Member" means any firefighter, law enforcement officer, or other person as would apply under subsection (17) or (19) of this section whose membership is transferred to the Washington law enforcement officers' and firefighters' retirement system on or after March 1, 1970, and every law enforcement officer and firefighter who is employed in that capacity on or after such date.

(22) "Plan 1" means the law enforcement officers' and firefighters' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(23) "Plan 2" means the law enforcement officers' and firefighters' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(24) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(25) "Regular interest" means such rate as the director may determine.

(26) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(27) "Retirement fund" means the "Washington law enforcement officers' and firefighters' retirement system fund" as provided for herein.

(28) "Retirement system" means the "Washington law enforcement officers' and firefighters' retirement system" provided herein.

(29)(a) "Service" for plan 1 members, means all periods of employment for an employer as a firefighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all service credit months of service rendered by a member from and after the member's initial commencement of employment as a firefighter or law enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160, or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act.

(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

(iii) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (15)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(b)(i) "Service" for plan 2 members, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month which shall constitute a service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for at least seventy hours but less than ninety hours per calendar month shall constitute one-half service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for less than seventy hours shall constitute a one-quarter service credit month.

(ii) Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

(iii) Service credit years of service shall be determined by dividing the total number of service credit months of service by twelve. Any fraction of a service credit year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

(iv) If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one service credit month's service credit during any calendar month in which multiple service for ninety or more hours is rendered; or one-half service credit month's service credit during any calendar month in which multiple service for at least seventy hours but less than ninety hours is rendered; or one-quarter service credit month during any calendar month in which multiple service for less than seventy hours is rendered.

(v) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (15)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(30) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(31) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(34) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162.

Sec. 3. RCW 41.32.010 and 2018 c 257 s 2 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1)(a) "Accumulated contributions" for plan 1 members, means the sum of all regular annuity contributions and, except for the purpose of withdrawal at the time of retirement, any amount paid under RCW 41.50.165(2) with regular interest thereon.

(b) "Accumulated contributions" for plan 2 members, means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the director and regular interest.

(3) "Adjustment ratio" means the value of index A divided by index B.

(4) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(5) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(6) "Average final compensation" for plan 2 and plan 3 members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.32.810(2).

(7)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(8) "Contract" means any agreement for service and compensation between a member and an employer.

(9) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan 1 members.

(10) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(11) "Dependent" means receiving one-half or more of support from a member.

(12) "Director" means the director of the department.

(13) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan 1 members.

(14)(a) "Earnable compensation" for plan 1 members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(ii) For an employee member of the retirement system teaching in an extended school year program, two consecutive extended school years, as defined by the employer school district, may be used as the annual period for determining earnable compensation in lieu of the two fiscal years.

(iii) "Earnable compensation" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit.

(B) If a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(iv) For members employed less than full time under written contract with a school district, or community college district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in RCW 41.32.345. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent as a classroom instructor (including office hours), a librarian, a psychologist, a social worker, a nurse, a physical therapist, an occupational therapist, a speech language pathologist or audiologist, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(v) "Earnable compensation" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of two hundred forty hours as authorized by RCW 43.01.044 and 43.01.041.

(b) "Earnable compensation" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Earnable compensation" for plan 2 and plan 3 members also includes the following actual or imputed payments which, except in the case of (b)(ii)(B) of this subsection, are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit.

(ii) In any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions.

(c) In calculating earnable compensation under (a) or (b) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer; ~~(and)~~

(ii) Any compensation forgone by a member during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary reductions; and

(iii) Any compensation forgone by a member during the 2019-2021 and 2021-2023 fiscal biennia as a result of reduced work hours, mandatory leave without pay, temporary layoffs, furloughs, reductions to current pay, or other similar measures resulting from the COVID-19 budgetary crisis, if the reduced

compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(15)(a) "Eligible position" for plan 2 members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan 2 and plan 3 on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or more months of at least seventy hours of earnable compensation during September through August of the following year.

(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

(16) "Employed" or "employee" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(17) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid. Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an employer. The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an employer, but is based solely on the relationship between a government contractor's employee and an employer under this chapter. For the purposes of retirement plan membership, this subsection includes tribal schools who have chosen to participate in the retirement system and satisfied the requirements of RCW 28A.715.010(7).

(18) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(19) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(20) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the bureau of labor statistics, United States department of labor.

(21) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(22) "Index B" means the index for the year prior to index A.

(23) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(24) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(25) "Member" means any teacher included in the membership of the retirement system who has not been removed from membership under RCW 41.32.878 or 41.32.768. Also, any other employee of the public schools who, on July 1, 1947, had not elected to be exempt from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the member reserve.

(26) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(27) "Member reserve" means the fund in which all of the accumulated contributions of members are held.

(28) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan 1 members.

(29) "Pension" means the moneys payable per year during life from the pension reserve.

(30) "Pension reserve" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(31) "Plan 1" means the teachers' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(32) "Plan 2" means the teachers' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and prior to July 1, 1996.

(33) "Plan 3" means the teachers' retirement system, plan 3 providing the benefits and funding provisions covering persons who first become members of the system on and after July 1, 1996, or who transfer under RCW 41.32.817.

(34) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan 1 members.

(35) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan 1 members.

(36) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University. For the purposes of retirement plan membership, this subsection includes tribal schools who have chosen to participate in the retirement system and satisfied the requirements of RCW 28A.715.010(7).

(37) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the member reserve. This subsection shall apply only to plan 1 members.

(38) "Regular interest" means such rate as the director may determine.

(39) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(40)(a) "Retirement allowance" for plan 1 members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan 2 and plan 3 members, means monthly payments to a retiree or beneficiary as provided in this chapter.

(41) "Retirement system" means the Washington state teachers' retirement system.

(42) "Separation from service or employment" occurs when a person has terminated all employment with an employer. Separation from service or employment does not occur, and if claimed by an employer or employee may be a violation of RCW 41.32.055, when an employee and employer have a written or oral agreement to resume employment with the same employer following termination. Mere expressions or inquiries about postretirement employment by an employer or employee that do not constitute a commitment to reemploy the employee after retirement are not an agreement under this section.

(43)(a) "Service" for plan 1 members means the time during which a member has been employed by an employer for compensation.

(i) If a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(ii) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(iii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(iv) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (14)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132.

(ii) Any other member employed in an eligible position or as a substitute who earns earnable compensation during the period from September through August shall receive service credit according to one of the following methods, whichever provides the most service credit to the member:

(A) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve-month period between September through August of the following year but earns earnable compensation for less than eight hundred ten hours but for at least six hundred thirty hours, he or she will receive one-half of a service credit month for each month of the twelve-month period;

(B) If a member is employed in an eligible position or as a substitute teacher for at least five months of a six-month period between September through August of the following year and earns earnable compensation for six hundred thirty or more hours within the six-month period, he or she will receive a maximum of six service credit months for the school year, which shall be recorded as one service credit month for each month of the six-month period;

(C) All other members employed in an eligible position or as a substitute teacher shall receive service credit as follows:

(I) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(II) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(III) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

(iii) Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions.

(iv) When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(v) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(vi) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(vii) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (14)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the

member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(viii) The department shall adopt rules implementing this subsection.

(44) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(45) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(46) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(47) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(48) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

(49) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

Sec. 4. RCW 41.34.040 and 2014 c 95 s 1 are each amended to read as follows:

(1) A member shall contribute from ~~((his or her))~~ the member's compensation according to one of the following rate structures in addition to the mandatory minimum five percent:

Option A	Contribution Rate
All Ages	0.0% fixed
Option B	
Up to Age 35	0.0%
Age 35 to 44	1.0%
Age 45 and above	2.5%
Option C	
Up to Age 35	1.0%
Age 35 to 44	2.5%
Age 45 and above	3.5%
Option D	
All Ages	2.0%
Option E	

All Ages	5.0%
Option F	
All Ages	10.0%

(2) The department shall have the right to offer contribution rate options in addition to those listed in subsection (1) of this section, provided that no significant additional administrative costs are created. All options offered by the department shall conform to the requirements stated in subsections (3) and (5) of this section.

(3)(a) For members of the teachers' retirement system entering plan 3 under RCW 41.32.835 or members of the school employees' retirement system entering plan 3 under RCW 41.35.610, within ninety days of becoming a member (~~he or she~~) the member has an option to choose one of the above contribution rate structures. If the member does not select an option within the ninety-day period, (~~he or she~~) the member shall be assigned option A.

(b) For members of the public employees' retirement system entering plan 3 under RCW 41.40.785, within the ninety days described in RCW 41.40.785 an employee who irrevocably chooses plan 3 shall select one of the above contribution rate structures. If the member does not select an option within the ninety-day period, (~~he or she~~) the member shall be assigned option A.

(c) For members of the teachers' retirement system transferring to plan 3 under RCW 41.32.817, members of the school employees' retirement system transferring to plan 3 under RCW 41.35.510, or members of the public employees' retirement system transferring to plan 3 under RCW 41.40.795, upon election to plan 3 (~~he or she~~) the member must choose one of the above contribution rate structures.

(d) Within ninety days of the date that an employee changes employers, (~~he or she~~) the member has an option to choose one of the above contribution rate structures. If the member does not select an option within this ninety-day period, (~~he or she~~) the member shall be assigned option A.

(4) Each year, through January of 2015, members of plan 3 of the teachers' retirement system may change their contribution rate option by notifying their employer in writing during the month of January. After January of 2015, a member of plan 3 of the teachers' retirement system may only change their contribution rate option under subsection (3)(d) of this section. The termination of this annual contribution rate change option in January 2015 is required to meet the plan qualification requirements in section 401(a) of the internal revenue code. Consistent with plan qualification requirements in the internal revenue code, this annual contribution rate change has never been available to plan 3 members of the public employees' retirement system and the school employees' retirement system.

(5) Contributions shall begin the first day of the pay cycle in which the rate option is made, or the first day of the pay cycle in which the end of the ninety-day period occurs.

(6) The contribution of plan 3 members is not affected by any reduction in hours worked because of participation of their employer in a shared work program under chapter 50.60 RCW. Plan 3 members shall continue to make contributions as if the member did not incur a reduction in hours through

participating in an approved shared work compensation plan under chapter 50.60 RCW.

Sec. 5. RCW 41.35.010 and 2018 c 257 s 3 are each amended to read as follows:

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

(1) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(3) "Adjustment ratio" means the value of index A divided by index B.

(4) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(5)(a) "Average final compensation" for plan 2 and plan 3 members means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2).

(b) In calculating average final compensation under (a) of this subsection, the department of retirement systems shall include ~~((any))~~:

(i) Any compensation forgone by a member during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary reductions; and

(ii) Any compensation forgone by a member during the 2019-2021 and 2021-2023 fiscal biennia as a result of reduced work hours, mandatory leave without pay, temporary layoffs, furloughs, reductions to current pay, or other similar measures resulting from the COVID-19 budgetary crisis, if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(6) "Beneficiary" for plan 2 and plan 3 members means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(7) "Classified employee" means an employee of a school district or an educational service district who is not eligible for membership in the teachers' retirement system established under chapter 41.32 RCW.

(8)(a) "Compensation earnable" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States internal revenue code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual

sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

(b) "Compensation earnable" for plan 2 and plan 3 members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement, which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided in this subsection, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(A) The compensation earnable the member would have received had such member not served in the legislature; or

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under this (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(9) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(10) "Director" means the director of the department.

(11) "Eligible position" means any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(12) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(13) "Employer," for plan 2 and plan 3 members, means a school district, an educational service district, or tribal school that has chosen to participate in the retirement system and has satisfied the requirements of RCW 28A.715.010(7).

Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an employer. The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an employer, but is based solely on the relationship between a government contractor's employee and an employer under this chapter.

(14) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(15) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(16) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(17) "Index B" means the index for the year prior to index A.

(18) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (22) of this section.

(19) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(20) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.35.030.

(21) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(22) "Membership service" means all service rendered as a member.

(23) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(24) "Plan 2" means the Washington school employees' retirement system plan 2 providing the benefits and funding provisions covering persons who first became members of the public employees' retirement system on and after October 1, 1977, and transferred to the Washington school employees' retirement system under RCW 41.40.750.

(25) "Plan 3" means the Washington school employees' retirement system plan 3 providing the benefits and funding provisions covering persons who first became members of the system on and after September 1, 2000, or who transfer from plan 2 under RCW 41.35.510.

(26) "Regular interest" means such rate as the director may determine.

(27) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(28) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(29) "Retirement allowance" for plan 2 and plan 3 members means monthly payments to a retiree or beneficiary as provided in this chapter.

(30) "Retirement system" means the Washington school employees' retirement system provided for in this chapter.

(31) "Separation from service" occurs when a person has terminated all employment with an employer.

(32) "Service" for plan 2 and plan 3 members means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.35.180. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(a) Service in any state elective position shall be deemed to be full-time service.

(b) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(c) For purposes of plan 2 and 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(i) Less than eleven days equals one-quarter service credit month;

(ii) Eleven or more days but less than twenty-two days equals one-half service credit month;

(iii) Twenty-two days equals one service credit month;

(iv) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month; and

(v) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(d) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (5)(b)(ii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(33) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(34) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(36) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(37) "State treasurer" means the treasurer of the state of Washington.

(38) "Substitute employee" means a classified employee who is employed by an employer exclusively as a substitute for an absent employee.

Sec. 6. RCW 41.37.010 and 2020 c 108 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) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(3) "Adjustment ratio" means the value of index A divided by index B.

(4) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(5)(a) "Average final compensation" means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.37.290.

(b) In calculating average final compensation under (a) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by a member employed by a state agency or institution during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer; ~~(and)~~

(ii) Any compensation forgone by a member employed by the state or a local government employer during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases; and

(iii) Any compensation forgone by a member during the 2019-2021 and 2021-2023 fiscal biennia as a result of reduced work hours, mandatory leave without pay, temporary layoffs, furloughs, reductions to current pay, or other similar measures resulting from the COVID-19 budgetary crisis, if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(6) "Beneficiary" means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(7)(a) "Compensation earnable" for members, means salaries or wages earned by a member during a payroll period for personal services, including

overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States internal revenue code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

(b) "Compensation earnable" for members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement, which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided in this subsection, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(A) The compensation earnable the member would have received had such member not served in the legislature; or

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.37.060;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(8) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(9) "Director" means the director of the department.

(10) "Eligible position" means any permanent, full-time position included in subsection (19) of this section.

(11) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(12) "Employer" means the Washington state department of corrections, the Washington state parks and recreation commission, the Washington state gambling commission, the Washington state patrol, the Washington state department of natural resources, the Washington state liquor and cannabis board,

the Washington state department of veterans affairs, the Washington state department of children, youth, and families, and the Washington state department of social and health services; any county corrections department; any city corrections department not covered under chapter 41.28 RCW; and any public corrections entity created under RCW 39.34.030 by counties, cities not covered under chapter 41.28 RCW, or both. Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an employer. The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an employer, but is based solely on the relationship between a government contractor's employee and an employer under this chapter.

(13) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(14) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(15) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(16) "Index B" means the index for the year prior to index A.

(17) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (10) of this section.

(18) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(19) "Member" means any employee employed by an employer on a full-time basis:

(a) Who is in a position that requires completion of a certified criminal justice training course and is authorized by their employer to arrest, conduct criminal investigations, enforce the criminal laws of the state of Washington, and carry a firearm as part of the job;

(b) Whose primary responsibility is to ensure the custody and security of incarcerated or probationary individuals as a corrections officer, probation officer, or jailer;

(c) Who is a limited authority Washington peace officer, as defined in RCW 10.93.020, for an employer;

(d) Whose primary responsibility is to provide nursing care to, or to ensure the custody and safety of, offender, adult probationary, or patient populations; and who is in a position that requires completion of defensive tactics training or de-escalation training; and who is employed by one of the following state institutions or centers operated by the department of social and health services or the department of children, youth, and families:

(i) Juvenile rehabilitation administration institutions, not including community facilities;

(ii) Mental health hospitals;

(iii) Child study and treatment centers; or

(iv) Institutions or residential sites that serve developmentally disabled patients or offenders, or perform competency restoration services, except for state-operated living alternatives facilities;

(e) Whose primary responsibility is to provide nursing care to offender and patient populations in institutions and centers operated by the following employers: A city or county corrections department as set forth in subsection (12) of this section, a public corrections entity as set forth in subsection (12) of this section, the Washington state department of corrections, or the Washington state department of veterans affairs; or

(f) Whose primary responsibility is to supervise members eligible under this subsection.

(20) "Membership service" means all service rendered as a member.

(21) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(22) "Plan" means the Washington public safety employees' retirement system plan 2.

(23) "Regular interest" means such rate as the director may determine.

(24) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(25) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(26) "Retirement allowance" means monthly payments to a retiree or beneficiary as provided in this chapter.

(27) "Retirement system" means the Washington public safety employees' retirement system provided for in this chapter.

(28) "Separation from service" occurs when a person has terminated all employment with an employer.

(29) "Service" means periods of employment by a member on or after July 1, 2006, for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(a) Service in any state elective position shall be deemed to be full-time service.

(b) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(c) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (5)(b)(iii) of this section do not result in a reduction in service

credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(30) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(31) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(34) "State treasurer" means the treasurer of the state of Washington.

Sec. 7. RCW 41.40.010 and 2012 c 236 s 6 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account, including any amount paid under RCW 41.50.165(2), together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(3) "Adjustment ratio" means the value of index A divided by index B.

(4) "Annual increase" means, initially, fifty-nine cents per month per year of service which amount shall be increased each July 1st by three percent, rounded to the nearest cent.

(5) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(6)(a) "Average final compensation" for plan 1 members, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service credit months for which service credit is allowed; or if the member has less than two years of service credit months then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan 2 and plan 3 members, means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2) or (c) of this subsection.

(c) In calculating average final compensation under this subsection for a member of plan 1, 2, or 3, the department of retirement systems shall include:

(i) Any compensation forgone by the member during the 2009-2011 fiscal biennium as a result of reduced work hours, voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary furloughs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer; ~~((and))~~

(ii) Any compensation forgone by a member employed by the state or a local government during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases; and

(iii) Any compensation forgone by a member during the 2019-2021 and 2021-2023 fiscal biennia as a result of reduced work hours, mandatory leave without pay, temporary layoffs, furloughs, reductions to current pay, or other similar measures resulting from the COVID-19 budgetary crisis, if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the employer. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(7)(a) "Beneficiary" for plan 1 members, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for plan 2 and plan 3 members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(8)(a) "Compensation earnable" for plan 1 members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established by the member's employer.

(i) "Compensation earnable" for plan 1 members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable and the individual shall receive the equivalent service credit;

(B) If a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee;

(C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(D) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(E) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(F) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(ii) "Compensation earnable" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Compensation earnable" for plan 2 and plan 3 members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Compensation earnable" for plan 2 and plan 3 members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided above, and the individual shall receive the equivalent service credit;

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(A) The compensation earnable the member would have received had such member not served in the legislature; or

(B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038;

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670; and

(vi) Compensation that a member receives for being in standby status. For the purposes of this section, a member is in standby status when not being paid for time actually worked and the employer requires the member to be prepared to report immediately for work, if the need arises, although the need may not arise.

(9) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(10) "Director" means the director of the department.

(11) "Eligible position" means:

(a) Any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. For purposes of this chapter an

employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position;

(b) Any position occupied by an elected official or person appointed directly by the governor, or appointed by the chief justice of the supreme court under RCW 2.04.240(2) or 2.06.150(2), for which compensation is paid.

(12) "Employee" or "employed" means a person who is providing services for compensation to an employer, unless the person is free from the employer's direction and control over the performance of work. The department shall adopt rules and interpret this subsection consistent with common law.

(13)(a) "Employer" for plan 1 members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for plan 2 and plan 3 members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030; except that after August 31, 2000, school districts and educational service districts will no longer be employers for the public employees' retirement system plan 2.

(c) Except as otherwise specifically provided in this chapter, "employer" does not include a government contractor. For purposes of this subsection, a "government contractor" is any entity, including a partnership, limited liability company, for-profit or nonprofit corporation, or person, that provides services pursuant to a contract with an "employer." The determination whether an employer-employee relationship has been established is not based on the relationship between a government contractor and an "employer," but is based solely on the relationship between a government contractor's employee and an "employer" under this chapter.

(14) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(15) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(16) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(17) "Index B" means the index for the year prior to index A.

(18) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(19) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (11) of this section.

(20) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(21) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.023. RCW 41.26.045 does not prohibit a person otherwise eligible for membership in the retirement system from establishing such membership effective when he or she first entered an eligible position.

(22) "Member account" or "member's account" for purposes of plan 3 means the sum of the contributions and earnings on behalf of the member in the defined contribution portion of plan 3.

(23) "Membership service" means:

(a) All service rendered, as a member, after October 1, 1947;

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system for which member and employer contributions, plus interest as required by RCW 41.50.125, have been paid under RCW 41.40.056 or 41.40.057;

(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of the total amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member had been a member during such period, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member;

(d) Service not to exceed six consecutive months of probationary service, rendered after October 1, 1947, and before April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of five percent of such member's salary during said period of probationary service, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member.

(24) "New member" means a person who becomes a member on or after April 1, 1949, except as otherwise provided in this section.

(25) "Original member" of this retirement system means:

(a) Any person who became a member of the system prior to April 1, 1949;

(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;

(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951, provided the member has rendered at least one or more years of service to any employer prior to October 1, 1947;

(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951, provided, such person has been in the regular employ of the employer for at least six months of the twelve-month period preceding the said admission date;

(e) Any member who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement becomes entitled to be credited with ten years or more of membership service except that the provisions relating to the minimum amount

of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member;

(f) Any member who has been a contributor under the system for two or more years and who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement has rendered five or more years of service for the state or any political subdivision prior to the time of the admission of the employer into the system; except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member.

(26) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(27) "Plan 1" means the public employees' retirement system, plan 1 providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(28) "Plan 2" means the public employees' retirement system, plan 2 providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977, and are not included in plan 3.

(29) "Plan 3" means the public employees' retirement system, plan 3 providing the benefits and funding provisions covering persons who:

(a) First become a member on or after:

(i) March 1, 2002, and are employed by a state agency or institute of higher education and who did not choose to enter plan 2; or

(ii) September 1, 2002, and are employed by other than a state agency or institute of higher education and who did not choose to enter plan 2; or

(b) Transferred to plan 3 under RCW 41.40.795.

(30) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(31) "Regular interest" means such rate as the director may determine.

(32) "Retiree" means any person who has begun accruing a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer while a member.

(33) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(34) "Retirement allowance" means the sum of the annuity and the pension.

(35) "Retirement system" means the public employees' retirement system provided for in this chapter.

(36) "Separation from service" occurs when a person has terminated all employment with an employer. Separation from service or employment does not occur, and if claimed by an employer or employee may be a violation of RCW 41.40.055, when an employee and employer have a written or oral agreement to resume employment with the same employer following termination. Mere expressions or inquiries about postretirement employment by an employer or employee that do not constitute a commitment to reemploy the employee after retirement are not an agreement under this subsection.

(37)(a) "Service" for plan 1 members, except as provided in RCW 41.40.088, means periods of employment in an eligible position or positions for one or more employers rendered to any employer for which compensation is

paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits. Time spent in standby status, whether compensated or not, is not service.

(i) Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system.

(ii) An individual shall receive no more than a total of twelve service credit months of service during any calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(iii) A school district employee may count up to forty-five days of sick leave as creditable service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 1 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than twenty-two days equals one-quarter service credit month;

(B) Twenty-two days equals one service credit month;

(C) More than twenty-two days but less than forty-five days equals one and one-quarter service credit month.

(iv) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (6)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(b) "Service" for plan 2 and plan 3 members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service. Time spent in standby status, whether compensated or not, is not service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(i) Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the Washington school employees' retirement system, teachers' retirement system, public safety employees' retirement system, or law enforcement officers' and firefighters' retirement system at the time of election or appointment to such position may elect to continue membership in the Washington school employees' retirement system, teachers' retirement system, public safety employees' retirement system, or law enforcement officers' and firefighters' retirement system.

(ii) A member shall receive a total of not more than twelve service credit months of service for such calendar year. If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(iii) Up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan 2 and plan 3 "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(iv) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (6)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(38) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(39) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(40) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(41) "State elective position" means any position held by any person elected or appointed to statewide office or elected or appointed as a member of the legislature.

(42) "State treasurer" means the treasurer of the state of Washington.

(43) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.

Sec. 8. RCW 43.43.120 and 2020 c 97 s 2 are each amended to read as follows:

As used in this section and RCW 43.43.130 through 43.43.320, unless a different meaning is plainly required by the context:

(1) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality table as may be adopted and such interest rate as may be determined by the director.

(2) "Annual increase" means as of July 1, 1999, seventy-seven cents per month per year of service which amount shall be increased each subsequent July 1st by three percent, rounded to the nearest cent.

(3)(a) "Average final salary," for members commissioned prior to January 1, 2003, shall mean the average monthly salary received by a member during the member's last two years of service or any consecutive two-year period of service, whichever is the greater, as an employee of the Washington state patrol; or if the member has less than two years of service, then the average monthly salary received by the member during the member's total years of service.

(b) "Average final salary," for members commissioned on or after January 1, 2003, shall mean the average monthly salary received by a member for the highest consecutive sixty service credit months; or if the member has less than sixty months of service, then the average monthly salary received by the member during the member's total months of service.

(c) In calculating average final salary under (a) or (b) of this subsection, the department of retirement systems shall include:

(i) Any compensation forgone by the member during the 2009-2011 fiscal biennium as a result of reduced work hours, mandatory or voluntary leave without pay, temporary reduction in pay implemented prior to December 11, 2010, or temporary layoffs if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief; ~~((and))~~

(ii) Any compensation forgone by a member during the 2011-2013 fiscal biennium as a result of reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief. Reductions to current pay shall not include elimination of previously agreed upon future salary reductions; and

(iii) Any compensation forgone by a member during the 2019-2021 and 2021-2023 fiscal biennia as a result of reduced work hours, mandatory leave without pay, temporary layoffs, furloughs, reductions to current pay, or other similar measures resulting from the COVID-19 budgetary crisis, if the reduced compensation is an integral part of the employer's expenditure reduction efforts, as certified by the chief. Reductions to current pay shall not include elimination of previously agreed upon future salary increases.

(4) "Beneficiary" means any person in receipt of retirement allowance or any other benefit allowed by this chapter.

(5)(a) "Cadet," for a person who became a member of the retirement system after June 12, 1980, is a person who has passed the Washington state patrol's entry-level oral, written, physical performance, and background examinations and is, thereby, appointed by the chief as a candidate to be a commissioned officer of the Washington state patrol.

(b) "Cadet," for a person who became a member of the retirement system before June 12, 1980, is a trooper cadet, patrol cadet, or employee of like classification, employed for the express purpose of receiving the on-the-job

training required for attendance at the state patrol academy and for becoming a commissioned trooper. "Like classification" includes: Radio operators or dispatchers; persons providing security for the governor or legislature; patrol officers; drivers' license examiners; weighmasters; vehicle safety inspectors; central wireless operators; and warehouse workers.

(6) "Contributions" means the deduction from the compensation of each member in accordance with the contribution rates established under chapter 41.45 RCW.

(7) "Current service" shall mean all service as a member rendered on or after August 1, 1947.

(8) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(9) "Director" means the director of the department of retirement systems.

(10) "Domestic partners" means two adults who have registered as domestic partners under RCW 26.60.040.

(11) "Employee" means any commissioned employee of the Washington state patrol.

(12) "Insurance commissioner" means the insurance commissioner of the state of Washington.

(13) "Lieutenant governor" means the lieutenant governor of the state of Washington.

(14) "Member" means any person included in the membership of the retirement fund.

(15) "Plan 2" means the Washington state patrol retirement system plan 2, providing the benefits and funding provisions covering commissioned employees who first become members of the system on or after January 1, 2003.

(16) "Prior service" shall mean all services rendered by a member to the state of Washington, or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington.

(17) "Regular interest" means interest compounded annually at such rates as may be determined by the director.

(18) "Retirement board" means the board provided for in this chapter.

(19) "Retirement fund" means the Washington state patrol retirement fund.

(20) "Retirement system" means the Washington state patrol retirement system.

(21)(a) "Salary," for members commissioned prior to July 1, 2001, shall exclude any overtime earnings related to RCW 47.46.040, or any voluntary overtime, earned on or after July 1, 2001, and prior to July 1, 2017. On or after July 1, 2017, salary shall exclude overtime earnings in excess of seventy hours per year in total related to either RCW 47.46.040 or any voluntary overtime.

(b) "Salary," for members commissioned from July 1, 2001, to December 31, 2002, shall exclude any overtime earnings related to RCW 47.46.040 or any voluntary overtime, earned prior to July 1, 2017, lump sum payments for deferred annual sick leave, or any form of severance pay. On or after July 1, 2017, salary shall exclude overtime earnings in excess of seventy hours per year in total related to either RCW 47.46.040 or any voluntary overtime.

(c) "Salary," for members commissioned on or after January 1, 2003, shall exclude any overtime earnings related to RCW 47.46.040 or any voluntary

overtime, earned prior to July 1, 2017, lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, holiday pay, or any form of severance pay. On or after July 1, 2017, salary shall exclude overtime earnings in excess of seventy hours per year in total related to either RCW 47.46.040 or any voluntary overtime.

(d) The addition of overtime earnings related to RCW 47.46.040 or any voluntary overtime earned on or after July 1, 2017, in chapter 181, Laws of 2017 is a benefit improvement that increases the member maximum contribution rate under RCW 41.45.0631(1) by 1.10 percent.

(22)(a) "Service" shall mean services rendered to the state of Washington or any political subdivisions thereof for which compensation has been paid. Full time employment for seventy or more hours in any given calendar month shall constitute one month of service. An employee who is reinstated in accordance with RCW 43.43.110 shall suffer no loss of service for the period reinstated subject to the contribution requirements of this chapter. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for herein. Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(b) Reduction efforts such as furloughs, reduced work hours, mandatory leave without pay, temporary layoffs, or other similar situations as contemplated by subsection (3)(c)(iii) of this section do not result in a reduction in service credit that otherwise would have been earned for that month of work, and the member shall receive the full service credit for the hours that were scheduled to be worked before the reduction.

(23) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(24) "State treasurer" means the treasurer of the state of Washington.

Unless the context expressly indicates otherwise, words importing the masculine gender shall be extended to include the feminine gender and words importing the feminine gender shall be extended to include the masculine gender.

NEW SECTION, Sec. 9. A new section is added to chapter 41.50 RCW to read as follows:

(1) With respect to plans administered by the department:

(a) If an employer participates in the shared work program under chapter 50.60 RCW, any reduction in hours worked by a member as a result of the employer's participation in the program does not impact the retirement benefit the member would otherwise be entitled to receive had the member's hours not been reduced. A member's benefit will be calculated as if the member did not incur a reduction in hours through participating in an approved shared work compensation plan under chapter 50.60 RCW.

(b) This section does not apply to deferred compensation plans.

(2) This section applies both prospectively and retroactively to July 28, 2013, the date that chapter 79, Laws of 2013 became effective.

Passed by the Senate February 23, 2021.

Passed by the House March 24, 2021.

Approved by the Governor April 7, 2021.

Filed in Office of Secretary of State April 7, 2021.

CHAPTER 13

[Substitute Senate Bill 5055]

LAW ENFORCEMENT DISCIPLINARY GRIEVANCE ARBITRATION

AN ACT Relating to establishing a statewide roster for arbitrating law enforcement personnel disciplinary grievances and publishing their decisions; amending RCW 41.56.122, 41.56.125, 41.56.905, 36.65.050, 41.80.020, and 41.80.030; reenacting and amending RCW 41.56.030; and adding a new section to chapter 41.58 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 41.58 RCW to read as follows:

(1) For the purposes of this section, the definitions in this subsection have the meanings given them.

(a) "Employer" means a political subdivision or law enforcement agency employing law enforcement personnel.

(b)(i) "Law enforcement personnel" means:

(A) Any individual employed, hired, or otherwise commissioned to enforce criminal laws by any municipal, county, or state agency or department, or combination thereof, that has, as its primary function, the enforcement of criminal laws in general, rather than the implementation or enforcement of laws related to specialized subject matter areas. For the purposes of this subsection (1)(b), officers employed, hired, or otherwise commissioned by the department of fish and wildlife are considered law enforcement personnel.

(B) Corrections officers and community corrections officers employed by the department of corrections.

(ii) "Law enforcement personnel" does not include any individual hired as an attorney to prosecute or litigate state or local criminal laws or ordinances, nor any civilian individuals hired to do administrative work.

(iii) For the purposes of this subsection (1)(b), "primary function" means that function to which the greater allocation of resources is made.

(c) "Disciplinary grievance" means a dispute or disagreement regarding any disciplinary action, discharge, or termination decision arising under a collective bargaining agreement covering law enforcement personnel.

(d) "Grievance arbitration" means binding arbitration of a disciplinary grievance under the grievance procedures established in a collective bargaining agreement covering law enforcement personnel.

(2)(a) The arbitrator selection procedure established under this section applies to all grievance arbitrations for disciplinary actions, discharges, or terminations of law enforcement personnel which are heard on or after January 1, 2022.

(b)(i) The grievance procedures for all collective bargaining agreements covering law enforcement personnel negotiated or renewed on or after January 1, 2022, must include the arbitrator selection procedure established in this section if the collective bargaining agreement provides for arbitration as a means of resolving grievances for disciplinary actions, discharges, or terminations.

(ii) The provisions of grievance procedures governing the appeal of disciplinary grievances in collective bargaining agreements covering law enforcement personnel negotiated or renewed prior to January 1, 2022, that provide for arbitration but do not contain the arbitrator selection procedures established in this section expire upon the expiration date of the collective bargaining agreement and may not be extended or rolled over beyond the expiration date of the collective bargaining agreement.

(c) This section does not require any party to a collective bargaining agreement in existence on the effective date of this section to reopen negotiations of the agreement or to apply any of the rights and responsibilities under this act unless and until the existing agreement is reopened or renegotiated by the parties or expires.

(3) All fees charged by arbitrators under this section must be in accordance with a schedule of fees established by the commission on an annual basis. The parties are responsible for paying the arbitrator's fees as set forth in the parties' negotiated fee-sharing provisions of their collective bargaining agreement or, in the absence of contractual fee-sharing provisions, shall be borne equally by the parties.

(4) The commission must appoint a roster of a minimum of nine persons and a maximum of 18 persons suited and qualified by training and experience to act as arbitrators for law enforcement personnel grievance arbitrations under this section.

(a) The commission may only consider appointing persons who possess:

(i) A minimum of six years' experience as a full-time labor relations advocate and who has been the principal representative of either labor or management in at least 10 arbitration proceedings;

(ii) A minimum of six years' experience as a full-time labor mediator with substantial mediation experience;

(iii) A minimum of six years' experience as an arbitrator and who has decided at least 10 cases involving collective bargaining disputes; or

(iv) A minimum of six years' experience as a practitioner or full-time instructor of labor law or industrial relations, including substantial content in the area of collective bargaining, labor agreements, and contract administration.

(b) In making these appointments, and as applicable, the commission must consider these factors:

(i) A candidate's familiarity, experience, and technical and theoretical understanding of and experience with labor law, the grievance process, and the field of labor arbitration;

(ii) A candidate's ability and willingness to travel through the state, conduct hearings in a fair and impartial manner, analyze and evaluate testimony and exhibits, write clear and concise awards in a timely manner, and be available for hearings within a reasonable time after the request of the parties;

(iii) A candidate's experience and training in cultural competency, racism, implicit bias, and recognizing and valuing community diversity and cultural differences; and

(iv) A candidate's familiarity and experience with the law enforcement profession, including ride-alongs with on-duty officers, participation in a citizen's academy conducted by a law enforcement agency, or other activities

that provide exposure to the environments, choices, and judgments required by officers in the field.

(5) The appointments are effective immediately upon selection by the commission. Except for appointments subject to subsection (6) of this section, appointments are for three years to expire on the first Monday in January.

(6) The commission must make at least three of the initial appointments to the roster of arbitrators for terms to expire on the first Monday in January 2024, at least three of the appointments for terms to expire on the first Monday in January 2025, and at least three of the appointments for terms to expire on the first Monday in January 2026. The initial terms of arbitrators appointed under this subsection may be for longer than three years.

(7) Subsequent appointments to the roster of arbitrators must be for three-year terms to expire on the first Monday in January, with the terms of no more than three arbitrators to expire in the same year.

(8) Nothing in this section prevents roster arbitrators from issuing decisions, or retaining jurisdiction to address issues relating to remedy, after the expiration of their term, if the arbitration hearing occurred during the term of their appointment.

(9) An arbitrator may be reappointed to the roster upon expiration of the arbitrator's term. If the arbitrator is not reappointed, the arbitrator may continue to serve until a successor is appointed, but in no case later than July 1st of the year in which the arbitrator's term expires.

(10) The commission may remove an arbitrator from the roster through a majority vote. A vacancy on the roster caused by a removal, a resignation, or another reason must be filled by the commission as necessary to fill the remainder of the arbitrator's term. A vacancy on the roster occurring with less than six months remaining in the arbitrator's term must be filled for the existing term and the following three-year term.

(11) A person appointed to the arbitrator roster under this section must complete training as developed, implemented, and required by the executive director. The commission may adopt rules establishing training requirements consistent with this section. The commission may also establish fees in order to cover the costs of developing and providing the training. At a minimum, an initial training must include:

(a) At least six hours on the topics of cultural competency, racism, implicit bias, and recognizing and valuing community diversity and cultural differences; and

(b) At least six hours on topics related to the daily experience of law enforcement personnel, which may include ride-alongs with on-duty officers, participation in a citizen's academy conducted by a law enforcement agency, shoot/don't shoot training provided by a law enforcement agency, or other activities that provide exposure to the environments, choices, and judgments required of officers in the field. For the purposes of this subsection (11)(b), "shoot/don't shoot training" means an interactive firearms training that simulates real-world scenarios to train law enforcement personnel on the use of force.

(12) An arbitrator appointed to the roster of arbitrators must complete the required initial training within six months of the arbitrator's appointment.

(13)(a) The executive director must assign an arbitrator or panel of arbitrators from the roster to each law enforcement personnel grievance

arbitration under this section on rotation through the roster alphabetically ordered by last name.

(i) If the arbitrator is unable to hear the case within three months from the request for an arbitrator, the executive director must appoint the next arbitrator from the roster alphabetically.

(ii) If an arbitrator has a conflict of interest that may reasonably be expected to materially impact the arbitrator's impartiality, the arbitrator must disclose such conflict to the executive director. The executive director may determine whether the conflict merits assigning the next arbitrator on the roster. Either party may petition the executive director to have an assigned arbitrator removed due to a conflict of interest that may reasonably be expected to materially impact the arbitrator's impartiality. If their petition is granted by the executive director, the executive director must assign the next arbitrator or panel of arbitrators on the roster.

(b) The arbitrator or panel of arbitrators shall decide the disciplinary grievance, and the decision is binding subject to the provisions of chapter 7.04A RCW.

(c) The parties may not participate in, negotiate for, or agree to the selection of an arbitrator or arbitration panel under this section. Employers and law enforcement personnel, through their certified exclusive bargaining representatives, do not have the right to negotiate for or agree to a collective bargaining agreement or a grievance arbitration selection procedure that is inconsistent with this section, if the collective bargaining agreement provides for arbitration as a means of resolving grievances for disciplinary actions, discharges, or terminations.

(14) The commission must post law enforcement grievance arbitration decisions made under this section on its website within 30 days of the date the grievance arbitration decision is made, with names of grievants and witnesses redacted.

(15) The arbitrator selection procedure for law enforcement grievance arbitrations established under this section supersedes any inconsistent provisions in any other chapter governing employee relations and collective bargaining for law enforcement personnel.

Sec. 2. RCW 41.56.122 and 2019 c 230 s 11 are each amended to read as follows:

~~(A)~~ Subject to section 1 of this act, a collective bargaining agreement may 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. 3. RCW 41.56.125 and 1975 1st ex.s. 296 s 23 are each amended to read as follows:

~~(H)~~ Except for law enforcement personnel grievance arbitrations subject to section 1 of this act, in addition to any other method for selecting arbitrators, the parties may request the public employment relations commission to, and the commission shall, appoint a qualified person who may be an employee of the commission to act as an arbitrator to assist in the resolution of a labor dispute between such public employer and such bargaining representative arising from the application of the matters contained in a collective bargaining agreement. The arbitrator shall conduct such arbitration of such dispute in a manner as

provided for in the collective bargaining agreement: PROVIDED, That the commission shall not collect any fees or charges from such public employer or such bargaining representative for services performed by the commission under the provisions of this chapter: PROVIDED FURTHER, That the provisions of chapter 49.08 RCW shall have no application to this chapter.

Sec. 4. RCW 41.56.905 and 1983 c 287 s 5 are each amended to read as follows:

The provisions of this chapter are intended to be additional to other remedies and shall be liberally construed to accomplish their purpose. Except as provided in RCW 53.18.015 and section 1 of this act, if any provision of this chapter conflicts with any other statute, ordinance, rule or regulation of any public employer, the provisions of this chapter shall control.

Sec. 5. RCW 36.65.050 and 1984 c 91 s 5 are each amended to read as follows:

~~((H))~~ Subject to the requirements of RCW 41.56.100 and section 1 of this act, if the city-county government includes a fire protection or law enforcement unit that was, prior to the formation of the city-county, governed by a state statute providing for binding arbitration in collective bargaining, then the entire fire protection or law enforcement unit of the city-county shall be governed by that statute.

Sec. 6. RCW 41.80.020 and 2015 3rd sp.s. c 1 s 318 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, the matters subject to bargaining include wages, hours, and other terms and conditions of employment, and the negotiation of any question arising under a collective bargaining agreement.

(2) The employer is not required to bargain over matters pertaining to:

(a) Health care benefits or other employee insurance benefits, except as required in subsection (3) of this section;

(b) Any retirement system or retirement benefit; or

(c) Rules of the director of financial management, the director of enterprise services, or the Washington personnel resources board adopted under RCW 41.06.157.

(3) Matters subject to bargaining include the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits. However, except as provided otherwise in this subsection for institutions of higher education, negotiations regarding the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits shall be conducted between the employer and one coalition of all the exclusive bargaining representatives subject to this chapter. The exclusive bargaining representatives for employees that are subject to chapter 47.64 RCW shall bargain the dollar amount expended on behalf of each employee for health care benefits with the employer as part of the coalition under this subsection. Any such provision agreed to by the employer and the coalition shall be included in all master collective bargaining agreements negotiated by the parties. For institutions of higher education, promotional preferences and the number of names to be certified for vacancies shall be

bargained under the provisions of RCW 41.80.010(4). For agreements covering the 2013-2015 fiscal biennium, any agreement between the employer and the coalition regarding the dollar amount expended on behalf of each employee for health care benefits is a separate agreement and shall not be included in the master collective bargaining agreements negotiated by the parties.

(4) The employer and the exclusive bargaining representative shall not agree to any proposal that would prevent the implementation of approved affirmative action plans or that would be inconsistent with the comparable worth agreement that provided the basis for the salary changes implemented beginning with the 1983-1985 biennium to achieve comparable worth.

(5) The employer and the exclusive bargaining representative shall not bargain over matters pertaining to management rights established in RCW 41.80.040.

(6) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

(7) This section does not prohibit bargaining that affects contracts authorized by RCW 41.06.142.

(8) Section 1 of this act applies to uniformed personnel.

Sec. 7. RCW 41.56.030 and 2020 c 298 s 1 and 2020 c 289 s 1 are each reenacted and 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, subject to section 1 of this act, 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) "Fish and wildlife officer" means a fish and wildlife officer as defined in RCW 77.08.010 who ranks below lieutenant and includes officers, detectives, and sergeants of the department of fish and wildlife.

(9) "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.

(10) "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.

(11)(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 who provided these services on or after January 1, 2019; or

(iii) For state agencies who provided these services on or after January 1, 2019.

(b) "Language access provider" does not mean a manager or employee of a broker or a language access agency.

(12) "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.

(13) "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.

(14) "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.

Sec. 8. RCW 41.80.030 and 2002 c 354 s 304 are each amended to read as follows:

(1) The parties to a collective bargaining agreement shall reduce the agreement to writing and both shall execute it.

(2) ((A)) Except as provided in section 1 of this act and RCW 41.80.020, a collective bargaining agreement shall contain provisions that:

(a) Provide for a grievance procedure that culminates with final and binding arbitration of all disputes arising over the interpretation or application of the collective bargaining agreement and that is valid and enforceable under its terms when entered into in accordance with this chapter; and

(b) Require processing of disciplinary actions or terminations of employment of employees covered by the collective bargaining agreement entirely under the procedures of the collective bargaining agreement. Any employee, when fully reinstated, shall be guaranteed all employee rights and benefits, including back pay, sick leave, vacation accrual, and retirement and federal old age, survivors, and disability insurance act credits, but without back pay for any period of suspension.

(3)(a) If a collective bargaining agreement between an employer and an exclusive bargaining representative is concluded after the termination date of the previous collective bargaining agreement between the employer and an employee organization representing the same bargaining units, the effective date

of the collective bargaining agreement may be the day after the termination of the previous collective bargaining agreement, and all benefits included in the new collective bargaining agreement, including wage or salary increases, may accrue beginning with that effective date.

(b) If a collective bargaining agreement between an employer and an exclusive bargaining representative is concluded after the termination date of the previous collective bargaining agreement between the employer and the exclusive bargaining representative representing different bargaining units, the effective date of the collective bargaining agreement may be the day after the termination date of whichever previous collective bargaining agreement covering one or more of the units terminated first, and all benefits included in the new collective bargaining agreement, including wage or salary increases, may accrue beginning with that effective date.

Passed by the Senate February 18, 2021.

Passed by the House March 24, 2021.

Approved by the Governor April 7, 2021.

Filed in Office of Secretary of State April 7, 2021.

CHAPTER 14

[Senate Bill 5058]

NATURAL RESOURCES ACCOUNTS--TECHNICAL CHANGES

AN ACT Relating to making technical changes to certain natural resources-related accounts; amending RCW 77.36.170; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 77.36.170 and 2020 c 148 s 24 are each amended to read as follows:

(1) The department may pay no more than fifty thousand dollars per fiscal year from the ((fish, wildlife, and conservation)) limited fish and wildlife account created in RCW 77.12.170((3)) (1) for claims and assessment costs for injury or loss of livestock caused by wolves submitted under RCW 77.36.100.

(2) Notwithstanding other provisions of this chapter, the department may also accept and expend money from other sources to address injury or loss of livestock or other property caused by wolves consistent with the requirements on that source of funding.

(3) If any wildlife account expenditures authorized under subsection (1) of this section are unspent as of June 30th of a fiscal year, the state treasurer shall transfer the unspent amount to the wolf-livestock conflict account created in RCW 77.36.180.

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 July 1, 2021.

Passed by the Senate March 5, 2021.

Passed by the House March 24, 2021.

Approved by the Governor April 7, 2021.

Filed in Office of Secretary of State April 7, 2021.

CHAPTER 15

[Senate Bill 5077]

MORTGAGE LOAN ORIGINATORS--WORK FROM HOME

AN ACT Relating to providing authority to licensed companies to allow licensed mortgage loan originators to work from their residences without the company licensing the residence as a branch office of the company; and amending RCW 31.04.027, 31.04.075, 19.146.0201, and 19.146.265.

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

Sec. 1. RCW 31.04.027 and 2018 c 62 s 11 are each amended to read as follows:

(1) It is a violation of this chapter for a licensee, its officers, directors, employees, or independent contractors, or any other person subject to this chapter to:

(a) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead any borrower, to defraud or mislead any lender, or to defraud or mislead any person;

(b) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(c) Directly or indirectly obtain property by fraud or misrepresentation;

(d) Solicit or enter into a contract with a borrower that provides in substance that the consumer loan company may earn a fee or commission through the consumer loan company's best efforts to obtain a loan even though no loan is actually obtained for the borrower;

(e) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;

(f) Fail to make disclosures to loan applicants as required by RCW 31.04.102 and any other applicable state or federal law;

(g) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engage in bait and switch advertising;

(h) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any reports filed with the department by a licensee or in connection with any investigation conducted by the department;

(i) Make any payment, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(j) Accept from any borrower at or near the time a loan is made and in advance of any default an execution of, or induce any borrower to execute, any instrument of conveyance, not including a mortgage or deed of trust, to the lender of any ownership interest in the borrower's primary dwelling that is the security for the borrower's loan;

(k) Obtain at the time of closing a release of future damages for usury or other damages or penalties provided by law or a waiver of the provisions of this chapter;

(l) Advertise any rate of interest without conspicuously disclosing the annual percentage rate implied by that rate of interest;

(m) Violate any applicable state or federal law relating to the activities governed by this chapter; or

(n) Make or originate loans from any unlicensed location. It is not a violation for a licensed mortgage loan originator to originate loans from an unlicensed location if that location is the licensed mortgage loan originator's residence and the licensed mortgage loan originator and licensed sponsoring company comply with RCW 31.04.075.

(2) It is a violation of this chapter for a student education loan servicer to:

(a) Conduct licensable activity from any unlicensed location;

(b) Misrepresent or omit any material information in connection with the servicing of a student education loan including, but not limited to, misrepresenting the amount, nature, conditions, or terms of any fee or payment due or claimed to be due on a student education loan, the terms and conditions of the loan agreement, the availability of loan discharge or forgiveness options, the availability and terms of and process for enrolling in income-driven repayment, or the borrower's obligations under the loan;

(c) Provide inaccurate information to a credit bureau, thereby harming a student education loan borrower's creditworthiness, including failing to report both the favorable and unfavorable payment history of the student education loan;

(d) Fail to report to a consumer credit bureau at least annually if the student education loan servicer regularly reports information to a credit bureau;

(e) Refuse to communicate with an authorized representative of the student education loan borrower who provides a written authorization signed by the student education loan borrower. However, the student education loan servicer may adopt procedures reasonably related to verifying that the representative is in fact authorized to act on behalf of the student education loan borrower;

(f) Refuse to communicate with the student education loan borrower or an authorized representative of the student education loan borrower;

(g) Apply payments made by a borrower to the outstanding balance of a student education loan, or allocate a payment across a group of student education loans, in a manner that does not conform with the borrower's stated intent. However, this subsection (2)(g) does not require application of a student education loan in a manner contrary to the express terms of the promissory note;

(h) Fail to respond within fifteen calendar days to communications from the student loan advocate, or within such shorter, reasonable time as the student loan advocate may request in his or her communication; or

(i) Fail to provide a response within fifteen calendar days to a consumer complaint submitted to the servicer by the student loan advocate. If necessary, a licensee may request additional time up to a maximum of forty-five calendar days, provided that such request is accompanied by an explanation why such additional time is reasonable and necessary.

(3) The director's obligations or duties under chapter 62, Laws of 2018 are subject to section 21, chapter 62, Laws of 2018.

Sec. 2. RCW 31.04.075 and 2015 c 229 s 23 are each amended to read as follows:

(1) The licensee may not maintain more than one place of business under the same license(, but the) unless:

(a) The director ((may issue)) authorizes more than one license to the same licensee upon approval of an application by the licensee in a form and manner established by the director; or

(b) The place of business is a licensed mortgage loan originator's residence and the licensed mortgage loan originator and licensed sponsoring company comply with state and federal information security requirements and all other requirements set forth in rule for mortgage loan originators working from their residences as provided in this chapter and in rule, consistent with the purposes of this section.

(2) Whenever a licensee wishes to change the place of business to a street address other than that reported in the nationwide mortgage licensing system and registry, the licensee must give prior written notice to the director, pay the fee, and obtain the director's approval.

Sec. 3. RCW 19.146.0201 and 2015 c 229 s 7 are each amended to read as follows:

It is a violation of this chapter for loan originators, mortgage brokers, officers, directors, employees, independent contractors, or any other person subject to this chapter to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(2) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(3) Directly or indirectly obtain property by fraud or misrepresentation;

(4) Solicit or enter into a contract with a borrower that provides in substance that the mortgage broker may earn a fee or commission through the mortgage broker's "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;

(5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting from a person exempt from licensing under RCW 19.146.020(1)(f) or a lender with whom the mortgage broker maintains a written correspondent or loan broker agreement under RCW 19.146.040;

(6) Fail to make disclosures to loan applicants and noninstitutional investors as required by RCW 19.146.030 and any other applicable state or federal law;

(7) Make, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engage in bait and switch advertising;

(8) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any reports filed by a licensee or in connection with any investigation conducted by the department;

(9) Make any payment, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(10) Advertise any rate of interest without conspicuously disclosing the annual percentage rate implied by such rate of interest;

(11) Fail to comply with state and federal laws applicable to the activities governed by this chapter;

(12) Fail to pay third-party providers no later than thirty days after the recording of the loan closing documents or ninety days after completion of the third-party service, whichever comes first, unless otherwise agreed or unless the third-party service provider has been notified in writing that a bona fide dispute exists regarding the performance or quality of the third-party service;

(13) Collect, charge, attempt to collect or charge or use or propose any agreement purporting to collect or charge any fee prohibited by RCW 19.146.030 or 19.146.070;

(14)(a) Except when complying with (b) and (c) of this subsection, act as a loan originator in any transaction (i) in which the loan originator acts or has acted as a real estate broker or salesperson or (ii) in which another person doing business under the same licensed real estate broker acts or has acted as a real estate broker or salesperson;

(b) Prior to providing mortgage services to the borrower, a loan originator, in addition to other disclosures required by this chapter and other laws, must provide to the borrower the following written disclosure:

THIS IS TO GIVE YOU NOTICE THAT I OR ONE OF MY ASSOCIATES HAVE/HAS ACTED AS A REAL ESTATE BROKER OR SALESPERSON REPRESENTING THE BUYER/SELLER IN THE SALE OF THIS PROPERTY TO YOU. I AM ALSO A LOAN ORIGINATOR, AND WOULD LIKE TO PROVIDE MORTGAGE SERVICES TO YOU IN CONNECTION WITH YOUR LOAN TO PURCHASE THE PROPERTY.

YOU ARE NOT REQUIRED TO USE ME AS A LOAN ORIGINATOR IN CONNECTION WITH THIS TRANSACTION. YOU ARE FREE TO COMPARISON SHOP WITH OTHER MORTGAGE BROKERS AND LENDERS, AND TO SELECT ANY MORTGAGE BROKER OR LENDER OF YOUR CHOOSING; and

(c) A real estate broker or salesperson licensed under chapter 18.85 RCW who also acts as a mortgage broker must carry on such mortgage broker business activities and must maintain such person's mortgage broker business records separate and apart from the real estate broker activities conducted pursuant to chapter 18.85 RCW. Such activities are separate and apart even if they are conducted at an office location with a common entrance and mailing address, so long as each business is clearly identified by a sign visible to the public, each business is physically separated within the office facility, and no deception of the public as to the separate identities of the broker business firms results. This subsection (14)(c) does not require a real estate broker or salesperson licensed under chapter 18.85 RCW who also acts as a mortgage broker to maintain a physical separation within the office facility for the conduct of its real estate and mortgage broker activities where the director determines that maintaining such physical separation would constitute an undue financial hardship upon the mortgage broker and is unnecessary for the protection of the public;

(15) Fail to comply with any provision of RCW 19.146.030 through 19.146.080 or any rule adopted under those sections;

(16) Originate loans from any unlicensed location. It is not a violation for a licensed mortgage loan originator to originate loans from an unlicensed location

if that location is the licensed mortgage loan originator's residence and the licensed mortgage loan originator and licensed sponsoring company comply with RCW 19.146.265;

(17) Solicit or accept from any borrower at or near the time a loan application is taken, and in advance of any foreclosure of the borrower's existing residential mortgage loan or loans, any instrument of conveyance of any interest in the borrower's primary dwelling that is the subject of the residential mortgage loan or loans; or

(18) Make a residential mortgage loan unless the loan is table funded.

Sec. 4. RCW 19.146.265 and 2015 c 229 s 16 are each amended to read as follows:

A (~~licensed mortgage broker may apply to the~~) licensee may not maintain more than one place of business under the same license unless:

(1) The director (~~for authority~~) approves the licensed mortgage broker's application, made in a form and manner established in rule, to establish one or more branch offices under the same or different name as the main office (~~upon the payment of a fee as prescribed by the director by rule~~). The applicant must be in good standing with the department, as defined in rule by the director, and the director must promptly issue a license for each of the branch offices showing the location of the main office and the particular branch; or

(2) The place of business is a licensed mortgage loan originator's residence and the licensed mortgage loan originator and licensed sponsoring company comply with state and federal information security requirements and other requirements as provided in this chapter and in rule, consistent with the purposes of this section.

Passed by the Senate February 3, 2021.

Passed by the House March 24, 2021.

Approved by the Governor April 7, 2021.

Filed in Office of Secretary of State April 7, 2021.

CHAPTER 16

[Substitute Senate Bill 5179]

BLOOD DONATION--ELIGIBILITY

AN ACT Relating to blood donation; and amending RCW 70.01.020.

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

Sec. 1. RCW 70.01.020 and 1969 c 51 s 1 are each amended to read as follows:

(1) Any person of the age of (~~eighteen~~) 18 years or over shall be eligible to donate blood, including donation through apheresis, in any voluntary and noncompensatory blood program without the necessity of obtaining parental permission or authorization.

(2) Any person between the ages of 16 and 17 years old shall be eligible to donate blood, including donation through apheresis, in any voluntary and noncompensatory blood program after obtaining parental or legal guardian permission or authorization.

Passed by the Senate February 23, 2021.

Passed by the House March 24, 2021.
Approved by the Governor April 7, 2021.
Filed in Office of Secretary of State April 7, 2021.

CHAPTER 17

[Senate Bill 5198]

AMBULANCES IN RURAL AREAS--DRIVER TRAINING

AN ACT Relating to personnel restrictions on ambulances in rural areas; and amending RCW 18.73.150.

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

Sec. 1. RCW 18.73.150 and 2017 c 70 s 1 are each amended to read as follows:

(1)(a) Any ambulance operated as such shall operate with sufficient personnel for adequate patient care, at least one of whom shall be an emergency medical technician under standards promulgated by the secretary. The emergency medical technician shall have responsibility for its operation and for the care of patients both before they are placed aboard the vehicle and during transit. If there are two or more emergency medical technicians operating the ambulance, a nondriving medical technician shall be in command of the vehicle. The emergency medical technician in command of the vehicle shall be in the patient compartment and in attendance to the patient.

(b) Except as provided in subsection (2) of this section, the driver of the ambulance shall have at least a certificate of advance first aid qualification recognized by the secretary pursuant to RCW 18.73.120 unless there are at least two certified emergency medical technicians in attendance of the patient, in which case the driver shall not be required to have such certificate.

(2) With approval from the department, an ambulance service established by volunteer or municipal corporations, or by an association made up entirely of two or more municipalities, in a rural area with insufficient personnel may use a driver without any medical or first aid training so long as the driver is at least eighteen years old, successfully passes a background check issued or approved by the department, possesses a valid driver's license with no restrictions, is accompanied by a nondriving emergency medical technician while operating the ambulance during a response or transport of a patient, and only provides medical care to patients to the level that they are trained.

Passed by the Senate February 3, 2021.
Passed by the House March 24, 2021.
Approved by the Governor April 7, 2021.
Filed in Office of Secretary of State April 7, 2021.

CHAPTER 18

[Senate Bill 5322]

SCHOOL EMPLOYEES' BENEFITS BOARD AND PUBLIC EMPLOYEES' BENEFITS BOARD--DUAL ENROLLMENT

AN ACT Relating to prohibiting dual enrollment between school employees' benefits board and public employees' benefits board programs; and amending RCW 41.05.742.

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

Sec. 1. RCW 41.05.742 and 2020 c 8 s 4 are each amended to read as follows:

Beginning with the 2022 plan year, individuals are limited to a single enrollment in medical, dental, and vision plans ~~((among)) in either the school employees' benefits board ((and)) or the public employees' benefits board ((plans. However, individuals may be enrolled in both public employees' benefits board and school employees' benefits board plans as long as those enrollments are across different types of plans, such as medical, dental, and vision)).~~ The school employees' benefits board and the public employees' benefits board shall adopt policies to reflect this single enrollment requirement.

Passed by the Senate February 23, 2021.

Passed by the House March 24, 2021.

Approved by the Governor April 7, 2021.

Filed in Office of Secretary of State April 7, 2021.

CHAPTER 19

[Senate Bill 5338]

FIRE PROTECTION DISTRICTS--EDUCATION

AN ACT Relating to fire protection districts and education; and amending RCW 52.02.020.

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

Sec. 1. RCW 52.02.020 and 2020 c 94 s 1 are each amended to read as follows:

(1) Fire protection districts for the provision of fire prevention services, fire suppression services, emergency medical services, and for the protection of life and property are authorized to be established as provided in this title.

(2) In addition to other services authorized under this section, fire protection districts that share a common border with Canada and are surrounded on three sides by water or are bounded on the north by Bremerton, on the west by Mason county, on the south by Pierce county, and on the east by the Puget Sound or are in Pierce county and surrounded by Case Inlet, Drayton Passage, Pitt Passage, and Carr Inlet, may also establish or participate in the provision of health clinic services.

(3) Fire protection districts may provide training, expend resources, and enter into interlocal agreements to mitigate the injuries and reduce the level of harm and occurrence in calls they respond to. Examples of trainings are those that may directly or indirectly address worker and workplace safety, teach first aid, prevent injuries, and reduce industrial-related accidents.

Passed by the Senate February 16, 2021.

Passed by the House March 24, 2021.

Approved by the Governor April 7, 2021.

Filed in Office of Secretary of State April 7, 2021.

CHAPTER 20

[Engrossed Substitute House Bill 1372]

NATIONAL STATUARY HALL—BILLY FRANK JR.

AN ACT Relating to replacing the Marcus Whitman statue in the national statuary hall collection with a statue of Billy Frank Jr.; adding a new section to chapter 43.08 RCW; creating new sections; and providing a contingent expiration date.

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

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

(1) In 1864, the national statuary hall collection was established in the United States capitol authorizing each state to contribute two statues to the collection. The statues must be of deceased persons who were citizens of the respective state and are historically important figures or known for their distinguished civic or military service.

(2) Washington has contributed to the collection a statue of Mother Joseph in 1980 and a statue of Marcus Whitman in 1953.

(3) Marcus Whitman was a missionary who traveled to present-day Washington state with his wife Narcissa. Together, they established several missions as well as their own settlement, Waiilatupu, near present-day Walla Walla. Whitman assisted in the "great emigration" of 1843, which established the Oregon trail. Whitman's contributions to the creation of Washington were profound and important. Whitman has represented the state in the statuary hall for nearly 70 years. The legislature finds that it is appropriate to replace his statue with one of a more contemporary Washingtonian to further celebrate the state and the continuous contributions Washingtonians have made in the 20th and 21st centuries.

(4) In the 1850s, the United States government signed a series of treaties with tribes in the region under which the tribes ceded millions of acres of land to the United States in exchange for agreeing to live on reservations while reserving what was most important to them: The right to continue to hunt, fish, and gather in all of their traditional places. Billy Frank Jr., born on March 9, 1931, on the banks of the Nisqually river in Washington, was a Nisqually tribal member and fought tirelessly to ensure that the United States government would honor the promises made in the treaties with Washington tribes. During his efforts, Billy Frank Jr. was arrested more than 50 times for exercising his treaty-protected right to fish for salmon, the first arrest being when he was 14 years old. He helped to stage "fish-ins" as protests, where he and others demanded that treaty tribes have the right to fish in their usual and accustomed places, a right that had been reserved in the treaty of Medicine Creek. His activism and perseverance paved the way for the "Boldt decision" in *United States v. Washington*, which affirmed the right of Washington treaty tribes to take up to half of the harvestable salmon in western Washington, reaffirmed tribal treaty-reserved rights, and established the tribes as comanagers of the salmon resource.

(5) Billy Frank Jr. dedicated his life advocating for equality, justice, and environmental protections. He fought to protect tribal treaty rights, native cultures and traditions, and the natural resources they are based upon, including fish and shellfish. Despite long-standing persecution, Billy Frank Jr. worked tirelessly to protect salmon for the benefit and enjoyment of all Washingtonians. When salmon populations plummeted toward extinction, eventually to the point of being listed as threatened under the federal endangered species act, Billy

Frank Jr. vocally advocated to unify people to reverse the trend. His endless work on salmon recovery was based on inclusivity and an understanding that tribal treaty rights will help recover salmon and would benefit the entire society and the economy in enumerable ways.

(6) Billy Frank Jr. was a patron and the longtime chairman of, the northwest Indian fisheries commission, which assists its 20 member tribes in managing salmon and other natural resources and upholding tribal treaty rights, serves as an information clearinghouse, provides a forum for tribes to address issues of mutual concern, and works to establish relationships with government agencies and nongovernment organizations to recover salmon.

(7) Billy Frank Jr.'s unwavering commitment to the fight for equality and the fight against racism and abuse was of global influence.

(8) Billy Frank Jr. has been likened to other humanitarians and civil rights leaders such as Reverend Dr. Martin Luther King Jr., Cesar Chavez, and Nelson Mandela.

(9) In recognition of his distinguished accomplishments, Billy Frank Jr. was awarded the Albert Schweitzer prize for humanitarianism, the common cause award for human rights efforts, the American Indian distinguished service award, the Washington state environmental excellence award, and the Wallace Stegner award. Billy Frank Jr. was posthumously awarded the presidential medal of freedom by President Barack Obama.

(10) Congress passed the Billy Frank Jr. tell your story act, renaming the Nisqually national wildlife refuge in honor of Billy Frank Jr., and establishing a national memorial within the Billy Frank Jr. Nisqually national wildlife refuge to commemorate the location of the signing of the 1854 treaty of Medicine Creek between the United States government and the Nisqually, Muckleshoot, Puyallup, and Squaxin Island tribes.

(11) Billy Frank Jr. passed away on May 5, 2014, but he continues to be an inspiration to many domestically and abroad.

(12) Billy Frank Jr. is a significant historical and civil rights figure who is worthy of recognition and inclusion in the national statutory hall collection.

NEW SECTION. Sec. 2. It is the intent and request of the legislature that the statue of Marcus Whitman be removed from the national statutory hall collection at the United States capitol and replaced with a statue of Billy Frank Jr., upon the approval of the joint committee on the library of congress in accordance with 2 U.S.C. Sec. 2132.

NEW SECTION. Sec. 3. (1) The Billy Frank Jr. national statutory hall selection committee is established to represent the state in the duties set forth under subsection (3) of this section.

(2)(a) The committee shall consist of the following members:

(i) The governor or the governor's designee;

(ii) The lieutenant governor;

(iii) The speaker of the house of representatives;

(iv) The minority leader of both the senate and house of representatives;

(v) Two members who represent the western Washington treaty tribes, appointed by the governor. The governor shall solicit from the northwest Indian fisheries commission a list of at least three nominees representing the western

Washington treaty tribes and, in making the appointment, shall consider the list of nominees submitted;

(vi) One member representing an environmental, conservation, or environmental justice nonprofit organization, appointed by the governor;

(vii) One member from Billy Frank Jr.'s family, appointed by the governor;

(viii) One member from the Washington state legacy project, created under RCW 43.07.363;

(ix) One member from the division of archives and records management, established under RCW 40.14.020;

(x) One member from the Washington state historical society;

(xi) One member from the Washington state department of archaeology and historic preservation; and

(xii) One member from the Washington state arts commission.

(b) The members described in (a) of this subsection shall select a chair of the committee.

(3) Upon the approval of the request under section 2 of this act by the joint committee on the library of congress, the governor shall convene the committee, and the committee shall:

(a) Enter into an agreement with the architect of the United States capitol pursuant to 2 U.S.C. Sec. 2132 to carry out the replacement of the statues as described in this act;

(b) Select and contract with a sculptor to design and carve or cast a statue of Billy Frank Jr., and design and fabricate its pedestal, to be placed in the national statutory hall collection;

(c) Ensure that the statue designed and created under (b) of this subsection complies with the conditions and restrictions set forth under 2 U.S.C. Sec. 2131;

(d) Arrange, in coordination with the architect of the United States capitol, for the removal and transportation of the Marcus Whitman statue to Washington, and arrange for an unveiling ceremony at the relocation site as selected in accordance with section 4 of this act;

(e) Arrange for the transportation and placement of the Billy Frank Jr. statue, in coordination with the architect of the United States capitol;

(f) Arrange for one or more ceremonies to celebrate the unveiling of the Billy Frank Jr. statue. The ceremonies may take place in Washington state, the United States capitol, or both; and

(g) Perform all other matters and things necessary to carry out the purpose and provisions of this section.

(4) The committee may accept gifts, grants, or endowments from public and private sources that are made in trust or otherwise for the use and benefit of the purposes of the committee in carrying out this act. The committee may spend gifts, grants, or endowments or income from public or private sources according to their terms. All receipts from gifts, grants, and endowments received pursuant to this subsection must be deposited in the Billy Frank Jr. national statutory hall collection fund established under section 5 of this act.

(5) No general fund resources may be expended to implement this section.

(6) For the purposes of this section, "committee" means the Billy Frank Jr. national statutory hall selection committee.

NEW SECTION. Sec. 4. (1) The governor shall select a county in Washington where the Marcus Whitman statue will be displayed after it is

removed from the national statutory hall collection and transferred to the state. The county selected must be a county that contains the historical location of the Whitman mission. The legislative body of the county must approve the location within the county where the statue will be sited. After any unveiling ceremonies held pursuant to section 3 of this act are concluded, the governor, on behalf of the state, and the selected county shall enter into an agreement for the transfer of ownership of the Marcus Whitman statue as authorized under RCW 39.33.010. The governor shall coordinate with the legislative body of the selected county to carry out the relocation process.

(2) By September 30, 2021, the governor shall submit to the architect of the United States capitol a written request to remove the Marcus Whitman statue and replace it with a statue of Billy Frank Jr. The request must include a description of the location in Washington where the Marcus Whitman statue will be displayed after it is transferred to the state, and a copy of this act authorizing the replacement.

(3) The governor shall notify the architect of the United States capitol in writing that the committee established under section 3 of this act is the entity that will act on behalf of the state in the replacement process.

NEW SECTION, Sec. 5. A new section is added to chapter 43.08 RCW to read as follows:

(1) The Billy Frank Jr. national statutory hall collection fund is created in the custody of the state treasurer. All receipts from gifts, grants, or endowments from public and private sources as authorized under section 3 of this act must be deposited into the fund. Expenditures from the fund may be used only to carry out the provisions of this act. Only the chair of the committee may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) This section expires when the duties under section 3 and 4 of this act are completed.

NEW SECTION, Sec. 6. The Billy Frank Jr. national statutory hall selection committee must provide written notice of the expiration date of section 5 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others deemed appropriate by the committee.

Passed by the House March 8, 2021.

Passed by the Senate April 5, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 21

[Substitute House Bill 1007]

SOCIAL WORKER LICENSES—DISTANCE SUPERVISION

AN ACT Relating to the completion of supervised experience through distance supervision; and amending RCW 18.225.090.

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

Sec. 1. RCW 18.225.090 and 2013 c 73 s 3 are each amended to read as follows:

(1) The secretary shall issue a license to any applicant who demonstrates to the satisfaction of the secretary that the applicant meets the following education and experience requirements for the applicant's practice area.

(a) Licensed social work classifications:

(i) Licensed advanced social worker:

(A) Graduation from a master's or doctorate social work educational program accredited by the council on social work education and approved by the secretary based upon nationally recognized standards;

(B) Successful completion of an approved examination;

(C) Successful completion of a supervised experience requirement. The supervised experience requirement consists of a minimum of three thousand two hundred hours with supervision by an approved supervisor who has been licensed for at least two years. Of those supervised hours:

(I) At least ninety hours must include direct supervision as specified in this subsection by a licensed independent clinical social worker, a licensed advanced social worker, or an equally qualified licensed mental health professional. Of those hours of directly supervised experience:

(1) At least fifty hours must include supervision by a licensed advanced social worker or licensed independent clinical social worker; the other forty hours may be supervised by an equally qualified licensed mental health practitioner; and

(2) At least forty hours must be in one-to-one supervision and fifty hours may be in one-to-one supervision or group supervision; and

(II) (~~Distance supervision is limited to forty supervision hours; and~~

~~(H))~~) Eight hundred hours must be in direct client contact; and

(D) Successful completion of continuing education requirements of thirty-six hours, with six in professional ethics.

(ii) Licensed independent clinical social worker:

(A) Graduation from a master's or doctorate level social work educational program accredited by the council on social work education and approved by the secretary based upon nationally recognized standards;

(B) Successful completion of an approved examination;

(C) Successful completion of a supervised experience requirement. The supervised experience requirement consists of a minimum of four thousand hours of experience, over a period of not less than three years, with supervision by an approved supervisor who has been licensed for at least two years and, as specified in this subsection, may be either a licensed independent clinical social worker who has had at least one year of experience in supervising the clinical social work of others or an equally qualified licensed mental health practitioner. Of those supervised hours:

(I) At least one thousand hours must be direct client contact; and

(II) Hours of direct supervision must include:

(1) At least one hundred thirty hours by a licensed mental health practitioner;

(2) At least seventy hours of supervision with a licensed independent clinical social worker meeting the qualifications under this subsection (1)(a)(ii)(C); the other sixty hours may be supervised by an equally qualified licensed mental health practitioner; and

(3) At least sixty hours must be in one-to-one supervision and seventy hours may be in one-to-one supervision or group supervision(~~(; and~~
~~(H) Distance supervision is limited to sixty supervision hours~~); and

(D) Successful completion of continuing education requirements of thirty-six hours, with six in professional ethics.

(b) Licensed mental health counselor:

(i) Graduation from a master's or doctoral level educational program in mental health counseling or a related discipline from a college or university approved by the secretary based upon nationally recognized standards;

(ii) Successful completion of an approved examination;

(iii) Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of thirty-six months full-time counseling or three thousand hours of postgraduate mental health counseling under the supervision of a qualified licensed mental health counselor or equally qualified licensed mental health practitioner, in an approved setting. The three thousand hours of required experience includes a minimum of one hundred hours spent in immediate supervision with the qualified licensed mental health counselor, and includes a minimum of one thousand two hundred hours of direct counseling with individuals, couples, families, or groups; and

(iv) Successful completion of continuing education requirements of thirty-six hours, with six in professional ethics.

(c) Licensed marriage and family therapist:

(i) Graduation from a master's degree or doctoral degree educational program in marriage and family therapy or graduation from an educational program in an allied field equivalent to a master's degree or doctoral degree in marriage and family therapy approved by the secretary based upon nationally recognized standards;

(ii) Successful passage of an approved examination;

(iii) Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of two calendar years of full-time marriage and family therapy. Of the total supervision, one hundred hours must be with a licensed marriage and family therapist with at least five years' clinical experience; the other one hundred hours may be with an equally qualified licensed mental health practitioner. Total experience requirements include:

(A) A minimum of three thousand hours of experience, one thousand hours of which must be direct client contact; at least five hundred hours must be gained in diagnosing and treating couples and families; plus

(B) At least two hundred hours of qualified supervision with a supervisor. At least one hundred of the two hundred hours must be one-on-one supervision, and the remaining hours may be in one-on-one or group supervision.

Applicants who have completed a master's program accredited by the commission on accreditation for marriage and family therapy education of the American association for marriage and family therapy may be credited with five hundred hours of direct client contact and one hundred hours of formal meetings with an approved supervisor; and

(iv) Successful completion of continuing education requirements of thirty-six hours, with six in professional ethics.

(2) The department shall establish by rule what constitutes adequate proof of meeting the criteria. Only rules in effect on the date of submission of a

completed application of an associate for her or his license shall apply. If the rules change after a completed application is submitted but before a license is issued, the new rules shall not be reason to deny the application.

(3) In addition, applicants shall be subject to the grounds for denial of a license or issuance of a conditional license under chapter 18.130 RCW.

Passed by the House January 22, 2021.

Passed by the Senate March 30, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 22

[Substitute House Bill 1037]

INSURANCE ADJUSTERS—VARIOUS PROVISIONS

AN ACT Relating to insurance adjusters; and amending RCW 48.17.010, 48.17.150, 48.17.410, and 48.17.420.

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

Sec. 1. RCW 48.17.010 and 2012 c 211 s 4 are each amended to read as follows:

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

(1) "~~Adjuster~~" means any person who ~~(, for compensation as an independent contractor or as an employee of an independent contractor, or for fee or commission, investigates or reports to the adjuster's principal relative to claims arising under insurance contracts, on behalf solely of either the insurer or the insured)~~ either investigates and negotiates settlement relative to insurance claims, or applies the factual circumstances of an insurance claim to the insurance policy provisions, or both, arising under property and casualty insurance contracts. An attorney-at-law who adjusts insurance losses from time to time incidental to the practice of his or her profession or an adjuster of marine losses is not deemed to be an "adjuster" for the purpose of this chapter. A salaried employee of an insurer or of a managing general agent is not deemed to be an "adjuster" for the purpose of this chapter, except when acting as a crop adjuster. An appraiser or umpire functioning under the appraisal clause in an insurance contract is not deemed to be an "adjuster" for the purpose of this chapter.

(a) "Independent adjuster" means an adjuster representing the interests of the insurer.

(b) "Public adjuster" means an adjuster employed by and representing solely the financial interests of the insured named in the policy.

(c) "Crop adjuster" means an adjuster, including (i) an independent adjuster, (ii) a public adjuster, and (iii) an employee of an insurer or managing general agent, who acts as an adjuster for claims arising under crop insurance. A salaried employee of an insurer or of a managing general agent who is certified by a crop adjuster program approved by the risk management agency of the United States department of agriculture is not a "crop adjuster" for the purposes of this chapter. Proof of certification must be provided to the commissioner upon request.

(d) For the purposes of this chapter:

(i) "Appraiser" means a person selected by the insurer or the insured to place a value on or estimate the amount of loss under an appraisal clause in an insurance contract.

(ii) "Umpire" means a person selected by the appraisers representing the insurer and the insured, or, if the appraisers cannot agree, by the court, who is charged with resolving issues that the appraisers are unable to agree upon during the course of an appraisal.

(2) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(3) "Crop insurance" means insurance coverage for damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils provided by the private insurance market, or multiple peril crop insurance reinsured by the federal crop insurance corporation, including but not limited to revenue insurance.

(4) "Home state" means the District of Columbia and any state or territory of the United States or province of Canada in which an insurance producer or adjuster maintains the insurance producer's or adjuster's principal place of residence or principal place of business, and is licensed to act as an insurance producer or adjuster.

(5) "Insurance education provider" means any insurer, health care service contractor, health maintenance organization, professional association, educational institution created by Washington statutes, or vocational school licensed under Title 28C RCW, or independent contractor to which the commissioner has granted authority to conduct and certify completion of a course satisfying the insurance education requirements of RCW 48.17.150.

(6) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance. "Insurance producer" does not include title insurance agents as defined in subsection (16) of this section or surplus line brokers licensed under chapter 48.15 RCW.

(7) "Insurer" has the same meaning as in RCW 48.01.050, and includes a health care service contractor as defined in RCW 48.44.010 and a health maintenance organization as defined in RCW 48.46.020.

(8) "License" means a document issued by the commissioner authorizing a person to act as an insurance producer or title insurance agent for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent, or inherent, in the holder to represent or commit to an insurer.

(9) "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, automobile dealer gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing the credit obligation that the commissioner determines should be designated a form of limited line credit insurance.

(10) "NAIC" means national association of insurance commissioners.

(11) "Negotiate" means the act of conferring directly with, or offering advice directly to, a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of

the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

(12) "Person" means an individual or a business entity.

(13) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer.

(14) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular insurer.

(15) "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of an insurance producer's authority to transact insurance.

(16) "Title insurance agent" means a business entity licensed under the laws of this state and appointed by an authorized title insurance company to sell, solicit, or negotiate insurance on behalf of the title insurance company.

(17) "Uniform application" means the current version of the NAIC uniform application for individual insurance producers for resident and nonresident insurance producer licensing.

(18) "Uniform business entity application" means the current version of the NAIC uniform application for business entity insurance license or registration for resident and nonresident business entities.

Sec. 2. RCW 48.17.150 and 2010 c 67 s 5 are each amended to read as follows:

(1) The commissioner shall by rule establish minimum continuing education requirements for the renewal or reissuance of a license to an insurance producer.

(2) The commissioner may by rule establish minimum continuing education requirements for the renewal or reissuance of a license to a crop adjuster, an independent adjuster, and a public adjuster.

(3) The commissioner shall require that continuing education courses will be made available on a statewide basis in order to ensure that persons residing in all geographical areas of this state will have a reasonable opportunity to attend such courses.

(4) The continuing education requirements must be appropriate to the license for the lines of authority specified in RCW 48.17.170 or by rule.

Sec. 3. RCW 48.17.410 and 2007 c 117 s 20 are each amended to read as follows:

An adjuster shall have authority under an adjuster's license only to either investigate ((or report)) and negotiate settlement relative to insurance claims, or apply the factual circumstances of an insurance claim to the insurance policy provisions, or both, to the adjuster's principal upon claims as limited under RCW 48.17.010(1) on behalf only of the insurers if licensed as an independent adjuster, or on behalf only of insureds if licensed as a public adjuster. An adjuster licensed concurrently as both an independent and a public adjuster shall not represent both the insurer and the insured in the same transaction.

Sec. 4. RCW 48.17.420 and 2010 c 67 s 7 are each amended to read as follows:

(1) An insurance producer or title insurance agent may from time to time act as an adjuster on behalf of and as authorized by an insurer for which an insurance producer or title insurance agent has been appointed as an agent and investigate and report upon claims without being required to be licensed as an

adjuster. An insurance producer or title insurance agent must not act as a crop adjuster or investigate or report upon claims arising under crop insurance without first obtaining a crop adjuster license or, if a salaried employee of an insurer or of a managing general agent, without first being certified by a crop adjuster proficiency program approved by the risk management agency of the United States department of agriculture.

(2) Except for losses arising under crop insurance, a license by this state is not required of a nonresident independent adjuster, for the adjustment in this state of a single loss, or of losses arising out of a catastrophe common to all such losses from which the governor proclaims a state of emergency, if the nonresident independent adjuster registers with the commissioner as an emergency adjuster and includes:

(a) The nonresident independent adjuster's name;

(b) The nonresident independent adjuster's contact information;

(c) The nonresident independent adjuster's home state and license number;

(d) The single loss or specific proclamation from the governor that details the emergency; and

(e) The insurers the nonresident independent adjuster is representing.

(3) An emergency adjuster:

(a) Must not operate longer than one hundred eighty days, unless extended by the commissioner;

(b) Is subject to all the disciplinary provisions and penalties of this title and Title 284 WAC; and

(c) Is subject to the jurisdiction of the courts of the state of Washington concerning civil liability for all acts in any way related to the emergency adjuster's actions in Washington state.

~~((3))~~ (4) For losses arising under crop insurance, a license by this state is not required of a nonresident crop adjuster, for the adjustment in this state of a single loss, or of losses arising out of a catastrophe common to all such losses, if the nonresident crop adjuster is:

(a) Licensed as a crop adjuster in another state;

(b) Certified by the risk management agency of the United States department of agriculture; or

(c) A salaried employee of an insurer or of a managing general agent who is certified by a crop adjuster proficiency program approved by the risk management agency of the United States department of agriculture.

Passed by the House February 3, 2021.

Passed by the Senate March 30, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 23

[House Bill 1042]

UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT— INTERNATIONAL APPLICATION—DEATH PENALTY

AN ACT Relating to revising the international application of the uniform child custody jurisdiction and enforcement act to protect families from facing the death penalty in certain foreign

jurisdictions on the basis of religious beliefs, political beliefs, or sexual orientation; amending RCW 26.27.051; creating a new section; and declaring an emergency.

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

Sec. 1. RCW 26.27.051 and 2001 c 65 s 105 are each amended to read as follows:

(1) A court of this state shall treat a foreign country as if it were a state of the United States for the purpose of applying Articles 1 and 2.

(2) Except as otherwise provided in subsection (3) or (4) of this section, a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of this chapter must be recognized and enforced under Article 3.

(3) A court of this state need not apply this chapter if the child custody law of a foreign country violates fundamental principles of human rights.

(4) A court of this state need not apply this chapter if the law of a foreign country holds that apostasy, or a sincerely held religious belief or practice, or homosexuality are punishable by death, and a parent or child may be at demonstrable risk of being subject to such laws. For the purposes of this subsection, "apostasy" means the abandonment or renunciation of a religious or political belief.

NEW SECTION. **Sec. 2.** This act applies to child custody proceedings or proceedings to enforce a child custody determination pending as of the effective date of this section, or commenced on or after the effective date of 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 immediately.

Passed by the House April 12, 2021.

Passed by the Senate March 30, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 24

[House Bill 1055]

TIMBER PURCHASE REPORTING—EXPIRATION DATE

AN ACT Relating to extending the expiration date for reporting requirements on timber purchases; amending RCW 84.33.088; 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 84.33.088 and 2017 c 55 s 1 are each amended to read as follows:

(1) A purchaser of privately owned timber in an amount in excess of (~~two hundred thousand~~) 200,000 board feet in a voluntary sale made in the ordinary course of business must, on or before the last day of the month following the purchase of the timber, report the particulars of the purchase to the department as required in subsection (2) of this section.

(2) The report required in subsection (1) of this section must contain all information relevant to the value of the timber purchased including, but not

limited to, the following, as applicable: Purchaser's name, address, and contact information; seller's name, address, and contact information; sale date; termination date in sale agreement; total sale price; legal description of sale area, sale name if applicable; forest practice application/harvest permit number if available; total acreage involved in the sale; estimated net volume of timber purchased by tree species and log grade; and description and value of property improvements. For the purposes of this subsection property improvements may include, but are not limited to: Road construction or road improvements, reforestation, land clearing, stock piling of rock, or any other agreed upon property improvement. A report may be submitted in any reasonable form or, at the purchaser's option, by submitting relevant excerpts of the timber sales contract. A purchaser may comply by submitting the information in the following form:

- Purchaser's name, address, and contact information:
- Seller's name, address, and contact information:
- Sale date:
- Termination date:
- Total sale price:
- Legal description of sale area:
- Sale name (if applicable):
- Forest practice application/Harvest permit number (if available):
- Total acreage involved:
- Estimated net volume of timber purchased by tree species and log grade:
- Description and value of property improvements, such as road construction or road improvements, reforestation, land clearing, stock piling of rock, or any other agreed upon property improvement:
-

(3) A purchaser of privately owned timber involved in a purchase described in subsection (1) of this section, who fails to report a purchase as required, may be liable for a penalty of (~~two hundred fifty dollars~~) \$250 for each failure to report, as determined by the department.

(4) Privately purchased timber reports are confidential taxpayer information under RCW 82.32.330.

(5) This section expires (~~July 1, 2021~~) September 30, 2025.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2021.

- Passed by the House February 5, 2021.
- Passed by the Senate March 30, 2021.
- Approved by the Governor April 14, 2021.
- Filed in Office of Secretary of State April 15, 2021.

CHAPTER 25

[Substitute House Bill 1064]

INTERNET SERVICE—RESIDENTIAL PROPERTY SELLER'S DISCLOSURE STATEMENT

AN ACT Relating to disclosing the availability of high-speed internet access; amending RCW 64.06.020; and creating a new section.

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

Sec. 1. RCW 64.06.020 and 2019 c 455 s 3 are each amended to read as follows:

(1) In a transaction for the sale of improved residential real property, the seller shall, unless the buyer has expressly waived the right to receive the disclosure statement under RCW 64.06.010, or unless the transfer is otherwise exempt under RCW 64.06.010, deliver to the buyer a completed seller disclosure statement in the following format and that contains, at a minimum, the following information:

INSTRUCTIONS TO THE SELLER

Please complete the following form. Do not leave any spaces blank. If the question clearly does not apply to the property write "NA." If the answer is "yes" to any * items, please explain on attached sheets. Please refer to the line number(s) of the question(s) when you provide your explanation(s). For your protection you must date and sign each page of this disclosure statement and each attachment. Delivery of the disclosure statement must occur not later than five business days, unless otherwise agreed, after mutual acceptance of a written contract to purchase between a buyer and a seller.

NOTICE TO THE BUYER

THE FOLLOWING DISCLOSURES ARE MADE BY SELLER ABOUT THE CONDITION OF THE PROPERTY LOCATED AT..... ("THE PROPERTY"), OR AS LEGALLY DESCRIBED ON ATTACHED EXHIBIT A.

SELLER MAKES THE FOLLOWING DISCLOSURES OF EXISTING MATERIAL FACTS OR MATERIAL DEFECTS TO BUYER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS YOU AND SELLER OTHERWISE AGREE IN WRITING, YOU HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO YOU TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. IF THE SELLER DOES NOT GIVE YOU A COMPLETED DISCLOSURE STATEMENT, THEN YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

THE FOLLOWING ARE DISCLOSURES MADE BY SELLER AND ARE NOT THE REPRESENTATIONS OF ANY REAL ESTATE LICENSEE OR OTHER PARTY. THIS INFORMATION IS FOR DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY WRITTEN AGREEMENT BETWEEN BUYER AND SELLER.

FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS PROPERTY YOU ARE ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF QUALIFIED EXPERTS TO INSPECT THE PROPERTY, WHICH MAY INCLUDE, WITHOUT LIMITATION, ARCHITECTS, ENGINEERS, LAND SURVEYORS, PLUMBERS, ELECTRICIANS, ROOFERS, BUILDING INSPECTORS, ON-SITE WASTEWATER TREATMENT INSPECTORS, OR STRUCTURAL PEST INSPECTORS. THE PROSPECTIVE BUYER AND SELLER MAY WISH TO OBTAIN PROFESSIONAL ADVICE OR INSPECTIONS OF THE PROPERTY OR TO PROVIDE APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN THEM WITH RESPECT TO ANY ADVICE, INSPECTION, DEFECTS OR WARRANTIES.

Seller is/ is not occupying the property.

I. SELLER'S DISCLOSURES:

If you answer "Yes" to a question with an asterisk (), please explain your answer and attach documents, if available and not otherwise publicly recorded. If necessary, use an attached sheet.

- | | | | |
|--------------------------|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 1. TITLE |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | A. Do you have legal authority to sell the property? If no, please explain. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | *B. Is title to the property subject to any of the following? |
| | | | (1) First right of refusal |
| | | | (2) Option |
| | | | (3) Lease or rental agreement |
| | | | (4) Life estate? |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | *C. Are there any encroachments, boundary agreements, or boundary disputes? |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | *D. Is there a private road or easement agreement for access to the property? |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | *E. Are there any rights-of-way, easements, or access limitations that may affect the Buyer's use of the property? |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | *F. Are there any written agreements for joint maintenance of an easement or right-of-way? |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | *G. Is there any study, survey project, or notice that would adversely affect the property? |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | *H. Are there any pending or existing assessments against the property? |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | *I. Are there any zoning violations, nonconforming uses, or any unusual restrictions on the property that would affect future construction or remodeling? |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | *J. Is there a boundary survey for the property? |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | *K. Are there any covenants, conditions, or restrictions recorded against the property? |

2. WATER

A. Household Water

(1) The source of water for the property is:

Private or publicly owned water system

Private well serving only the subject property

* Other water system

Yes No Don't know

*If shared, are there any written agreements?

Yes No Don't know

*(2) Is there an easement (recorded or unrecorded) for access to and/or maintenance of the water source?

Yes No Don't know

*(3) Are there any problems or repairs needed?

Yes No Don't know

(4) During your ownership, has the source provided an adequate year-round supply of potable water? If no, please explain.

Yes No Don't know

*(5) Are there any water treatment systems for the property? If yes, are they Leased Owned

Yes No Don't know

*(6) Are there any water rights for the property associated with its domestic water supply, such as a water right permit, certificate, or claim?

Yes No Don't know

(a) If yes, has the water right permit, certificate, or claim been assigned, transferred, or changed?

*(b) If yes, has all or any portion of the water right not been used for five or more successive years?

Yes No Don't know

*(7) Are there any defects in the operation of the water system (e.g. pipes, tank, pump, etc.)?

B. Irrigation Water

(1) Are there any irrigation water rights for the property, such as a water right permit, certificate, or claim?

Yes No Don't know

*(a) If yes, has all or any portion of the water right not been used for five or more successive years?

Yes No Don't know

*(b) If so, is the certificate available? (If yes, please attach a copy.)

Yes No Don't know

*(c) If so, has the water right permit, certificate, or claim been assigned, transferred, or changed?

Yes No Don't know

*(2) Does the property receive irrigation water from a ditch company, irrigation district, or other entity? If so, please identify the entity that supplies water to the property:

C. Outdoor Sprinkler System

(1) Is there an outdoor sprinkler system for the property?

Yes No Don't know

Yes No Don't know *(2) If yes, are there any defects in the system?

Yes No Don't know *(3) If yes, is the sprinkler system connected to irrigation water?

3. SEWER/ON-SITE SEWAGE SYSTEM

A. The property is served by:

- Public sewer system,
- On-site sewage system (including pipes, tanks, drainfields, and all other component parts)
- Other disposal system, please describe:

Yes No Don't know B. If public sewer system service is available to the property, is the house connected to the sewer main? If no, please explain.

Yes No Don't know *C. Is the property subject to any sewage system fees or charges in addition to those covered in your regularly billed sewer or on-site sewage system maintenance service?

D. If the property is connected to an on-site sewage system:

Yes No Don't know *(1) Was a permit issued for its construction, and was it approved by the local health department or district following its construction?
(2) When was it last pumped?
.....

Yes No Don't know *(3) Are there any defects in the operation of the on-site sewage system?
(4) When was it last inspected?
.....
By whom:

Don't know (5) For how many bedrooms was the on-site sewage system approved?
..... bedrooms

Yes No Don't know E. Are all plumbing fixtures, including laundry drain, connected to the sewer/on-site sewage system? If no, please explain:

Yes No Don't know *F. Have there been any changes or repairs to the on-site sewage system?

Yes No Don't know G. Is the on-site sewage system, including the drainfield, located entirely within the boundaries of the property? If no, please explain.
.....

Yes No Don't know *H. Does the on-site sewage system require monitoring and maintenance services more frequently than once a year?
.....

- Yes No Don't know
- Yes No Don't know
- Yes No Don't know

Other

*B. If any of the following fixtures or property is included with the transfer, are they leased? (If yes, please attach copy of lease.)

Security system

Tanks (type):

Satellite dish

Other:

- Yes No Don't know
- Yes No Don't know
- Yes No Don't know
- Yes No Don't know
- Yes No Don't know

*C. Are any of the following kinds of wood burning appliances present at the property?

(1) Woodstove?

(2) Fireplace insert?

(3) Pellet stove?

(4) Fireplace?

If yes, are all of the (1) woodstoves or (2) fireplace inserts certified by the U.S. Environmental Protection Agency as clean burning appliances to improve air quality and public health?

- Yes No Don't know

D. Is the property located within a city, county, or district or within a department of natural resources fire protection zone that provides fire protection services?

- Yes No Don't know

E. Is the property equipped with carbon monoxide alarms?
(Note: Pursuant to RCW 19.27.530, seller must equip the residence with carbon monoxide alarms as required by the state building code.)

- Yes No Don't know

F. Is the property equipped with smoke detection devices?
(Note: Pursuant to RCW 43.44.110, if the property is not equipped with at least one smoke detection device, at least one must be provided by the seller.)

- Yes No Don't know
- Don't know

G. Does the property currently have internet service?
Provider

6. HOMEOWNERS' ASSOCIATION/COMMON INTERESTS

- Yes No Don't know

A. Is there a Homeowners' Association? Name of Association and contact information for an officer, director, employee, or other authorized agent, if any, who may provide the association's financial statements, minutes, bylaws, fining policy, and other information that is not publicly available:

- Yes No Don't know

B. Are there regular periodic assessments:
\$. . . per Month Year
 Other

- Yes No Don't know

*C. Are there any pending special assessments?

Yes No Don't know *D. Are there any shared "common areas" or any joint maintenance agreements (facilities such as walls, fences, landscaping, pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)?

7. ENVIRONMENTAL

Yes No Don't know *A. Have there been any flooding, standing water, or drainage problems on the property that affect the property or access to the property?

Yes No Don't know *B. Does any part of the property contain fill dirt, waste, or other fill material?

Yes No Don't know *C. Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?

Yes No Don't know D. Are there any shorelines, wetlands, floodplains, or critical areas on the property?

Yes No Don't know *E. Are there any substances, materials, or products in or on the property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?

Yes No Don't know *F. Has the property been used for commercial or industrial purposes?

Yes No Don't know *G. Is there any soil or groundwater contamination?

Yes No Don't know *H. Are there transmission poles or other electrical utility equipment installed, maintained, or buried on the property that do not provide utility service to the structures on the property?

Yes No Don't know *I. Has the property been used as a legal or illegal dumping site?

Yes No Don't know *J. Has the property been used as an illegal drug manufacturing site?

Yes No Don't know *K. Are there any radio towers in the area that cause interference with cellular telephone reception?

8. MANUFACTURED AND MOBILE HOMES

If the property includes a manufactured or mobile home,

Yes No Don't know *A. Did you make any alterations to the home? If yes, please describe the alterations:

Yes No Don't know *B. Did any previous owner make any alterations to the home?

Yes No Don't know *C. If alterations were made, were permits or variances for these alterations obtained?

9. FULL DISCLOSURE BY SELLERS

A. Other conditions or defects:

Yes No Don't know *Are there any other existing material defects affecting the property that a prospective buyer should know about?
 B. Verification:
 The foregoing answers and attached explanations (if any) are complete and correct to the best of my/our knowledge and I/we have received a copy hereof. I/we authorize all of my/our real estate licensees, if any, to deliver a copy of this disclosure statement to other real estate licensees and all prospective buyers of the property.

DATE SELLER SELLER

NOTICE TO THE BUYER

INFORMATION REGARDING REGISTERED SEX OFFENDERS MAY BE OBTAINED FROM LOCAL LAW ENFORCEMENT AGENCIES. THIS NOTICE IS INTENDED ONLY TO INFORM YOU OF WHERE TO OBTAIN THIS INFORMATION AND IS NOT AN INDICATION OF THE PRESENCE OF REGISTERED SEX OFFENDERS.

II. BUYER'S ACKNOWLEDGMENT

- A. Buyer hereby acknowledges that: Buyer has a duty to pay diligent attention to any material defects that are known to Buyer or can be known to Buyer by utilizing diligent attention and observation.
- B. The disclosures set forth in this statement and in any amendments to this statement are made only by the Seller and not by any real estate licensee or other party.
- C. Buyer acknowledges that, pursuant to RCW 64.06.050(2), real estate licensees are not liable for inaccurate information provided by Seller, except to the extent that real estate licensees know of such inaccurate information.
- D. This information is for disclosure only and is not intended to be a part of the written agreement between the Buyer and Seller.
- E. Buyer (which term includes all persons signing the "Buyer's acceptance" portion of this disclosure statement below) has received a copy of this Disclosure Statement (including attachments, if any) bearing Seller's signature.

DISCLOSURES CONTAINED IN THIS DISCLOSURE STATEMENT ARE PROVIDED BY SELLER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS BUYER AND SELLER OTHERWISE AGREE IN WRITING, BUYER SHALL HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS DISCLOSURE STATEMENT AND ACKNOWLEDGES THAT THE DISCLOSURES MADE HEREIN ARE THOSE OF THE SELLER ONLY, AND NOT OF ANY REAL ESTATE LICENSEE OR OTHER PARTY.

DATE BUYER BUYER

(2) If the disclosure statement is being completed for new construction which has never been occupied, the disclosure statement is not required to contain and the seller is not required to complete the questions listed in item 4. Structural or item 5. Systems and Fixtures.

(3) The seller disclosure statement shall be for disclosure only, and shall not be considered part of any written agreement between the buyer and seller of residential property. The seller disclosure statement shall be only a disclosure made by the seller, and not any real estate licensee involved in the transaction, and shall not be construed as a warranty of any kind by the seller or any real estate licensee involved in the transaction.

NEW SECTION. Sec. 2. This act applies to real estate transactions entered into on or after January 1, 2022.

Passed by the House February 5, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 26

[Engrossed Substitute House Bill 1068]

ELECTION SECURITY INFORMATION—PUBLIC RECORDS ACT EXEMPTION

AN ACT Relating to exempting election security information from public records disclosure; amending RCW 42.56.420; creating a new section; and declaring an emergency.

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

Sec. 1. RCW 42.56.420 and 2017 c 149 s 1 are each amended to read as follows:

The following information relating to security is exempt from disclosure under this chapter:

(1) Those portions of records assembled, prepared, or maintained to prevent, mitigate, or respond to criminal terrorist acts, which are acts that significantly disrupt the conduct of government or of the general civilian population of the state or the United States and that manifest an extreme indifference to human life, the public disclosure of which would have a substantial likelihood of threatening public safety, consisting of:

(a) Specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments, or to the response or deployment plans; and

(b) Records not subject to public disclosure under federal law that are shared by federal or international agencies, and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for acts of terrorism;

(2) Those portions of records containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans at a city, county, or state adult or juvenile correctional facility, or secure facility for persons civilly confined under chapter 71.09 RCW, the public disclosure of

which would have a substantial likelihood of threatening the security of a city, county, or state adult or juvenile correctional facility, secure facility for persons civilly confined under chapter 71.09 RCW, or any individual's safety;

(3) Information compiled by school districts or schools in the development of their comprehensive safe school plans under RCW 28A.320.125, to the extent that they identify specific vulnerabilities of school districts and each individual school;

(4) Information regarding the public and private infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities, and other such information the release of which may increase risk to the confidentiality, integrity, or availability of security, information technology infrastructure, or assets;

(5) The system security and emergency preparedness plan required under RCW 35.21.228, 35A.21.300, 36.01.210, 36.57.120, 36.57A.170, and 81.112.180; ~~(and)~~

(6) Personally identifiable information of employees, and other security information, of a private cloud service provider that has entered into a criminal justice information services agreement as contemplated by the United States department of justice criminal justice information services security policy, as authorized by 28 C.F.R. Part 20; and

(7) In addition to the information in subsection (4) of this section, the following related to election security:

(a)(i) The continuity of operations plan for election operations and any security audits, security risk assessments, or security test results, relating to physical security or cybersecurity of election operations or infrastructure. These records are exempt from disclosure in their entirety; and

(ii) Those portions of records containing information about election infrastructure, election security, or potential threats to election security, the public disclosure of which may increase risk to the integrity of election operations or infrastructure.

(b) The exemptions specified in (a) of this subsection do not include information or records pertaining to security breaches, except as prohibited from disclosure pursuant to RCW 29A.12.200.

(c) The exemptions specified in (a) of this subsection do not prohibit an audit authorized or required under Title 29A RCW from being conducted.

NEW SECTION. Sec. 2. The exemptions in this act apply to any public records requests made prior to the effective date of this section for which the disclosure of records has not already occurred.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House February 24, 2021.

Passed by the Senate March 29, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 27

[Engrossed Substitute House Bill 1070]

AFFORDABLE HOUSING LOCAL TAX REVENUE—ALLOWED USES

AN ACT Relating to modifying allowed uses of local tax revenue for affordable housing and related services to include the acquisition and construction of affordable housing and facilities; amending RCW 82.14.530 and 67.28.180; and declaring an emergency.

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

Sec. 1. RCW 82.14.530 and 2020 c 222 s 1 are each amended to read as follows:

(1)(a)(i) A county legislative authority may submit an authorizing proposition to the county voters at a special or general election and, if the proposition is approved by a majority of persons voting, impose a sales and use tax in accordance with the terms of this chapter. The title of each ballot measure must clearly state the purposes for which the proposed sales and use tax will be used. The rate of tax under this section may not exceed one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(ii) As an alternative to the authority provided in (a)(i) of this subsection, a county legislative authority may impose, without a proposition approved by a majority of persons voting, a sales and use tax in accordance with the terms of this chapter. The rate of tax under this section may not exceed one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(b)(i) If a county does not impose the full tax rate authorized under (a) of this subsection by September 30, 2020, any city legislative authority located in that county may:

(A) Submit an authorizing proposition to the city voters at a special or general election and, if the proposition is approved by a majority of persons voting, impose the whole or remainder of the sales and use tax rate in accordance with the terms of this chapter. The title of each ballot measure must clearly state the purposes for which the proposed sales and use tax will be used; or

(B) Impose, without a proposition approved by a majority of persons voting, the whole or remainder of the sales and use tax rate in accordance with the terms of this chapter.

(ii) The rate of tax under this section may not exceed one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax.

(iii) A county with a population of greater than one million five hundred thousand may impose the tax authorized under (a)(ii) of this subsection only if the county plans to spend at least thirty percent of the moneys collected under this section that are attributable to taxable activities or events within any city with a population greater than sixty thousand located in that county within that city's boundaries.

(c) If a county imposes a tax authorized under (a) of this subsection after a city located in that county has imposed the tax authorized under (b) of this subsection, the county must provide a credit against its tax for the full amount of tax imposed by a city.

(d) The taxes authorized in this subsection are in addition to any other taxes authorized by law and must be collected from 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 for a county's tax and within a city for a city's tax.

(2)(a) Notwithstanding subsection (4) of this section, a minimum of sixty percent of the moneys collected under this section must be used for the following purposes:

(i) Constructing or acquiring affordable housing, which may include emergency, transitional, and supportive housing and new units of affordable housing within an existing structure, and facilities providing housing-related services, or acquiring land for these purposes; or

(ii) Constructing ~~((mental and))~~ or acquiring behavioral health-related facilities, or acquiring land for these purposes; or

(iii) Funding the operations and maintenance costs of new units of affordable housing and facilities where housing-related programs are provided, or newly constructed evaluation and treatment centers.

(b) The affordable housing and facilities providing housing-related programs in (a)(i) of this subsection may only be provided to persons within any of the following population groups whose income is at or below sixty percent of the median income of the county imposing the tax:

(i) Persons with behavioral health disabilities;

(ii) Veterans;

(iii) Senior citizens;

(iv) ~~((Homeless;))~~ Persons who are homeless or at-risk of being homeless, including families with children;

(v) Unaccompanied homeless youth or young adults;

(vi) Persons with disabilities; or

(vii) Domestic violence survivors.

(c) The remainder of the moneys collected under this section must be used for the operation, delivery, or evaluation of ~~((mental and))~~ behavioral health treatment programs and services or housing-related services.

(3)(a) A county that imposes the tax under this section must consult with a city before the county may construct or acquire any of the facilities authorized under subsection (2)(a) of this section within the city limits.

(b) Among other priorities, a county that acquires a facility under subsection (2)(a) of this section must provide an opportunity for 15 percent of the units provided at that facility to be provided to individuals who are living in or near the city in which the facility is located, or have ties to that community. The provisions of this subsection (3)(b) do not apply if the county is unable to identify sufficient individuals within the city in need of services that meet the criteria provided in subsection (2)(b) of this section. This prioritization must not jeopardize United States department of housing and urban development funding for the continuum of care program.

(4) A county that has not imposed the tax authorized under RCW 82.14.460 prior to October 9, 2015, but imposes the tax authorized under this section after a city in that county has imposed the tax authorized under RCW 82.14.460 prior to October 9, 2015, must enter into an interlocal agreement with that city to determine how the services and provisions described in subsection (2) of this section will be allocated and funded in the city.

(5) To carry out the purposes of subsection (2)(a) and (b) of this section, the legislative authority of the county or city imposing the tax has the authority to issue general obligation or revenue bonds within the limitations now or hereafter prescribed by the laws of this state, and may use, and is authorized to pledge, up to fifty percent of the moneys collected under this section for repayment of such bonds, in order to finance the provision or construction of affordable housing, facilities where housing-related programs are provided, or evaluation and treatment centers described in subsection (2)(a)(iii) of this section.

(6)(a) Moneys collected under this section may be used to offset reductions in state or federal funds for the purposes described in subsection (2) of this section.

(b) No more than ten percent of the moneys collected under this section may be used to supplant existing local funds.

Sec. 2. RCW 67.28.180 and 2015 c 102 s 3 are each amended to read as follows:

(1) Subject to the conditions set forth in subsections (2) and (3) of this section, the legislative body of any county or any city, is authorized to levy and collect a special excise tax of not to exceed two percent on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW.

(2) Any levy authorized by this section is subject to the following:

(a) Any county ordinance or resolution adopted pursuant to this section must contain, in addition to all other provisions required to conform to this chapter, a provision allowing a credit against the county tax for the full amount of any city tax imposed pursuant to this section upon the same taxable event.

(b)(i) In the event that any county has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 (~~((through and))~~) and 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 (~~((through and))~~) and 67.28.160, such county is exempt from the provisions of (a) of this subsection, to the extent that the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW 67.28.150 (~~((through and))~~) and 67.28.160. However, so much of such pledged tax revenues, together with any investment earnings thereon, not immediately necessary for actual payment of principal and interest on such bonds may be used: (A) In any county with a population of one million five hundred thousand or more, for repayment either of limited tax levy general obligation bonds or of any county fund or account from which a loan was made, the proceeds from the bonds or loan being used to pay for constructing, installing, improving, and equipping stadium capital improvement projects, and to pay for any engineering, planning, financial, legal and professional services incident to the development of such stadium capital improvement projects, regardless of the date the debt for such capital improvement projects was or may be incurred; (B) in any county with a population of one million five hundred thousand or more, for repayment or refinancing of bonded indebtedness incurred prior to January 1, 1997, for any purpose authorized by this section or relating to stadium repairs or rehabilitation, including but not limited to the cost of settling legal claims, reimbursing

operating funds, interest payments on short-term loans, and any other purpose for which such debt has been incurred if the county has created a public stadium authority to develop a stadium and exhibition center under RCW 36.102.030; or (C) in other counties, for county-owned facilities for agricultural promotion until January 1, 2009, and thereafter for any purpose authorized in this chapter.

(ii) A county is exempt under this subsection with respect to city revenue or general obligation bonds issued after April 1, 1991, only if such bonds mature before January 1, 2013. If any county located east of the crest of the Cascade mountains has levied the tax authorized by this section and has, prior to June 26, 1975, pledged the tax revenue for payment of principal and interest on city revenue or general obligation bonds, the county is exempt under this subsection with respect to revenue or general obligation bonds issued after January 1, 2007, only if the bonds mature before January 1, 2035. Such a county may only use funds under this subsection (2)(b) for constructing or improving facilities authorized under this chapter, including county-owned facilities for agricultural promotion.

(iii) As used in this subsection (2)(b), "capital improvement projects" may include, but not be limited to a stadium restaurant facility, restroom facilities, artificial turf system, seating facilities, parking facilities and scoreboard and information system adjacent to or within a county owned stadium, together with equipment, utilities, accessories and appurtenances necessary thereto. The stadium restaurant authorized by this subsection (2)(b) must be operated by a private concessionaire under a contract with the county.

(c)(i) No city within a county exempt under (b) of this subsection may levy the tax authorized by this section so long as said county is so exempt.

(ii) No city within a county with a population of one million five hundred thousand or more may levy the tax authorized by this section.

(iii) However, in the event that any city in a county described in (c)(i) or (ii) of this subsection (2) has levied the tax authorized by this section and has, prior to June 26, 1975, authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 (~~((through and))~~) and 67.28.160, such city may levy the tax so long as the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW 67.28.150 (~~((through and))~~) and 67.28.160.

(3) Any levy authorized by this section by a county that has a population of one million five hundred thousand or more is subject to the following:

(a) Taxes collected under this section in any calendar year before 2013 in excess of five million three hundred thousand dollars may only be used as follows:

(i) Seventy percent from January 1, 2001, through December 31, 2012, for art museums, cultural museums, heritage museums, the arts, and the performing arts. Moneys spent under this subsection (3)(a)(i) must be used for the purposes of this subsection (3)(a)(i) in all parts of the county.

(ii) Thirty percent from January 1, 2001, through December 31, 2012, for the following purposes and in a manner reflecting the following order of priority: Stadium purposes as authorized under subsection (2)(b) of this section; acquisition of open space lands; youth sports activities; and tourism promotion. If all or part of the debt on the stadium is refinanced, all revenues under this subsection (3)(a)(ii) must be used to retire the debt.

(b) From January 1, 2013, through December 31, 2015, all revenues under this section must be used to retire the debt on the stadium, until the debt on the stadium is retired. On and after the date the debt on the stadium is retired, and through December 31, 2015, all revenues under this section in a county of one million five hundred thousand or more must be deposited in the special account under (e) of this subsection.

(c) From January 1, 2016, through December 31, 2020, all revenues under this section must be deposited in the stadium and exhibition center account under RCW 43.99N.060.

(d) On and after January 1, 2021, the revenues under this section must be used as follows:

(i) At least thirty-seven and one-half percent of the revenues under this section must be deposited in the special account under (e) of this subsection.

(ii) At least thirty-seven and one-half percent of the revenues under this section must be used:

(A) For contracts, loans, or grants to nonprofit organizations or public housing authorities for affordable workforce housing within one-half mile of a transit station, as described under RCW 9.91.025 or for housing, facilities, or services for homeless youth; or

(B) To repay:

(I) General obligation bonds issued pursuant to RCW 67.28.150 to finance such contracts, loans, or grants; or

(II) Revenue bonds issued pursuant to RCW 67.28.160 to finance a fund to make such contracts, loans, or grants; or

(III) Revenue bonds issued pursuant to RCW 67.28.160 to finance projects authorized by an authority under chapter 43.167 RCW to promote sustainable workplace opportunities near a community impacted by the construction or operation of tourism-related facilities.

(iii) The remainder must be used for capital or operating programs that promote tourism and attract tourists to the county.

(e) At least forty percent of the revenues distributed pursuant to (a)(i) of this subsection must be deposited in a special account. The account may only be used for the purposes of (a)(i) of this subsection.

(f) School districts and schools may not receive revenues distributed pursuant to (a)(i) of this subsection.

(g) Moneys distributed to art museums, cultural museums, heritage museums, the arts, and the performing arts, and moneys distributed for tourism promotion must be in addition to and may not be used to replace or supplant any other funding by the legislative body of the county.

(h) For the purposes of this section:

(i) "Affordable workforce housing" means housing for a single person, family, or unrelated persons living together whose income is ~~((between thirty percent and eighty))~~ at or below 80 percent of the median income, adjusted for household size, for the county where the housing is located; and

(ii) "Tourism promotion" includes activities intended to attract visitors for overnight stays, arts, heritage, and cultural events, and recreational, professional, and amateur sports events. Moneys allocated to tourism promotion in a county with a population of one million or more must be allocated to local public organizations and nonprofit organizations formed for the express purpose of

tourism promotion in the county. Such organizations must use moneys from the taxes to promote events in all parts of the county.

(i) No taxes collected under this section may be used for the operation or maintenance of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged. Expenditures for operation or maintenance include all expenditures other than expenditures that directly result in new fixed assets or that directly increase the capacity, life span, or operating economy of existing fixed assets.

(j) No ad valorem property taxes may be used for debt service on bonds issued for a public stadium that is financed by bonds to which the tax is pledged, unless the taxes collected under this section are or are projected to be insufficient to meet debt service requirements on such bonds.

(k) If a substantial part of the operation and management of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged is performed by a nonpublic entity or if a public stadium is sold that is financed directly or indirectly by bonds to which the tax is pledged, any bonds to which the tax is pledged shall be retired. This subsection (3)(k) does not apply in respect to a public stadium under chapter 36.102 RCW transferred to, owned by, or constructed by a public facilities district under chapter 36.100 RCW or a stadium and exhibition center.

(l) The county may not lease a public stadium that is financed directly or indirectly by bonds to which the tax is pledged to, or authorize the use of the public stadium by, a professional major league sports franchise unless the sports franchise gives the right of first refusal to purchase the sports franchise, upon its sale, to local government. This subsection (3)(l) does not apply to contracts in existence on April 1, 1986.

(4) If a court of competent jurisdiction declares any provision of subsection (3) of this section invalid, then that invalid provision is null and void and the remainder of this section is not affected.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House February 25, 2021.

Passed by the Senate March 30, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 28

[Engrossed Second Substitute House Bill 1083]

CLOSED AND CONVERTED MANUFACTURED/MOBILE HOME PARKS—RELOCATION ASSISTANCE

AN ACT Relating to relocation assistance for tenants of closed or converted manufactured/mobile home parks; amending RCW 59.21.005, 59.21.021, and 59.21.050; and repealing RCW 59.21.025.

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

Sec. 1. RCW 59.21.005 and 2019 c 390 s 1 are each amended to read as follows:

The legislature recognizes that it is quite costly for tenants who own homes in manufactured/mobile home parks to relocate when the park in which they reside is closed or converted to another use. Many such tenants need financial assistance in order to relocate from a manufactured/mobile home park. The purpose of this chapter is to provide a mechanism for assisting manufactured/mobile home tenants to relocate their manufactured/mobile homes to suitable alternative sites or demolish and dispose of their homes and secure alternative housing of their choice.

Sec. 2. RCW 59.21.021 and 2019 c 390 s 3 are each amended to read as follows:

(1) If a manufactured/mobile home park is, or is scheduled to be closed or converted to another use, eligible tenants shall be entitled to relocation assistance on a first-come, first-serve basis. The department shall give priority for distribution of relocation assistance to eligible tenants residing in parks that are closed as a result of park-owner fraud or as a result of health and safety concerns as determined by the local board of health. Payments shall be made upon the department's verification of eligibility, subject to the availability of remaining funds.

(2) Eligibility for relocation assistance funds is limited to low-income households in manufactured/mobile home parks that are, or are scheduled to be, closed or converted to another use.

(3)~~((a))~~ Eligible tenants ~~((who relocate))~~ are entitled to financial assistance from the fund, up to a maximum of ~~((twelve thousand dollars))~~ \$17,000 for a multisection home and up to a maximum of ~~((seven thousand five hundred dollars))~~ \$11,000 for a single-section home. The department shall distribute relocation assistance for each eligible tenant as follows:

~~((i) Up to forty percent of the total assistance may be disbursed))~~ (a) \$12,000 for a multisection home and \$8,000 for a single-section home shall be disbursed in the form of cash assistance to help the tenant relocate the home or secure ~~((new))~~ alternative housing; and

~~((ii) The remainder of the total assistance shall be disbursed as reimbursement for costs associated with relocation.~~

~~(b) To receive financial assistance as provided in (a)(i) of this subsection, documentation must be provided to the department that demonstrates the tenant:~~

~~(i) Has relocated the home;~~

~~(ii) Has established a process to secure the relocation of the home by having assigned the right to reimbursement of the relocation costs and liability for such removal or demolition and disposal to another entity; or~~

~~(iii) Has contracted to incur expenses associated with relocating the home.~~

~~(c) If the tenant is requesting financial assistance under (b)(ii) or (iii) of this subsection, the tenant, or the assignee on the tenant's behalf, must submit as part of the application described in RCW 59.21.050(2):~~

~~(i) Proof of the assignment; and~~

~~(ii) Evidence that the assignee is capable of fulfilling the obligation itself or a contract or invoice for relocation of the home executed with a vendor by the tenant or the assignee))~~ (b) The remainder of the total assistance shall be disbursed once the tenant has transferred the title to the park-owner, relocated the home, or demolished and disposed of the home. The tenant must either transfer title of the manufactured/mobile home to the park-owner, relocate, or

demolish and dispose of the home within 90 days of receiving the assistance under (a) of this subsection to receive the remainder of the assistance.

(4) In the event that the tenant does not relocate or demolish and dispose of the home within 90 days of receiving assistance from the fund, the park-owner may seek reimbursement from the fund in the amount of \$4,000 for a multisection home and \$2,500 for a single-section home.

(a) To receive such reimbursement, the park-owner must provide documentation to the department demonstrating costs incurred for demolition and disposal of the home.

(b) The park-owner may seek reimbursement for additional costs incurred for demolition and disposal of the home up to an additional \$4,500 for a multisection home and \$3,000 for a single-section home from the portion of the relocation fund to which park-owners must contribute pursuant to RCW 59.30.050.

(5) Any individual or organization may apply to receive ~~((funds))~~ relocation assistance from the fund, for use in combination with funds from public or private sources, toward relocation of tenants eligible under this section, with agreement from the tenant.

~~((§))~~ (6) The legislature intends the cash assistance provided under subsection (3)~~((a)-(i))~~ of this section to be considered a one-time direct grant payment that shall be excluded from household income calculations for purposes of determining the eligibility of the recipient for benefits or assistance under any state program financed in whole or in part with state funds.

Sec. 3. RCW 59.21.050 and 2019 c 390 s 5 are each amended to read as follows:

(1)(a) The existence of the manufactured/mobile home park relocation fund in the custody of the state treasurer is affirmed.

(b) Expenditures from the fund may only be used as follows:

(i) Except as provided in subsection (3) of this section, all moneys received from the fee as specified in RCW 46.17.155 must be used only for relocation assistance awarded under this chapter.

(ii) All moneys received from the fee as specified in RCW 59.30.050 must be used only for the relocation coordination program created in RCW 59.21.120.

(c) Only the director or the director's designee may authorize expenditures from the fund. All relocation payments to tenants shall be made from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

(2) A tenant is eligible for relocation assistance under this chapter only after an application is submitted by that tenant or an organization acting on the tenant's account under RCW 59.21.021~~((4))~~ (5) on a form approved by the director. The application shall include: (a) A copy of the notice from the park-owner, or other adequate proof, that the tenancy is terminated due to closure of the park or its conversion to another use; (b) a copy of the rental agreement then in force, or other proof that the applicant was a tenant at the time of notice of closure; (c) ~~((a statement of relocation expenses expected to be incurred; (d)))~~ proof of ownership of the home at the time of notice of closure; ~~((and (e)))~~ (d) a statement, on a form approved by the department, of ~~((any other available assistance received))~~ whether the tenant will transfer title of the home to the park-owner or relocate the home within 90 days of receiving relocation

assistance; and (e) other information as may be required by the department to process the application.

(3) The department may deduct a percentage amount of the fee collected under RCW 46.17.155 for administration expenses incurred by the department.

NEW SECTION. Sec. 4. RCW 59.21.025 (Relocation assistance—Sources other than fund—Reductions) and 2019 c 390 s 4, 1998 c 124 s 3, & 1995 c 122 s 6 are each repealed.

Passed by the House February 25, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 29

[Substitute House Bill 1085]

STUDENTS WITH SEIZURE DISORDERS

AN ACT Relating to promoting a safe learning environment for students with seizure disorders; amending RCW 28A.210.260 and 28A.210.350; adding a new section to chapter 28A.210 RCW; and adding a new section to chapter 28A.235 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) School districts shall provide individual health plans for students with epilepsy or other seizure disorders, subject to the following conditions:

(a) The board of directors of the school district shall adopt and periodically revise policies to be followed for students with epilepsy or other seizure disorders. The policies must cover, but need not be limited to, the following subjects:

(i) The acquisition of parent requests and instructions;

(ii) The acquisition of orders from licensed health professionals prescribing within the scope of their prescriptive authority for monitoring and treatment of seizure disorders at school;

(iii) The provision for storage of medical equipment and medication provided by the parent;

(iv) The establishment of school policy exceptions necessary to accommodate the students' needs related to epilepsy or other seizure disorders as described in the individual health plan;

(v) The development of individual emergency plans;

(vi) The distribution of the individual health plan to appropriate staff based on the students' needs and staff level of contact with the student;

(vii) The possession of legal documents for parent-designated adults to provide care, if needed; and

(viii) The updating of the individual health plan at least annually; and

(b) The board of directors, in the course of developing the policies in (a) of this subsection, shall consult with one or more licensed physicians or nurses, or appropriate personnel from a national epilepsy organization that offers seizure training and education for school nurses and other school personnel.

(2)(a) 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 or other seizure disorders to ensure a safe, therapeutic learning environment. Training required under this subsection (2)(a) may also be provided by a national organization that offers training for school nurses for managing students with seizures and seizure training for school personnel.

(b)(i) Parent-designated adults who are school district employees must receive training in accordance with (a) of this subsection (2).

(ii) Parent-designated adults who are not school district employees must show evidence of training in proper procedures for care of students with epilepsy or other seizure disorders. Training required under this subsection (2)(b)(ii) may be provided by a national organization that offers training for school nurses for managing students with seizures and seizure training for school personnel.

(iii) The professional person designated under (a) of this subsection (2) is not responsible for the supervision of the parent-designated adult for procedures authorized by the parents.

(3)(a) To be eligible to be a parent-designated adult, a school district employee not licensed under chapter 18.79 RCW shall 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 district employee who is not licensed under chapter 18.79 RCW chooses not to file a letter under this section, the employee may not be subject to any employer reprisal or disciplinary action for refusing to file a letter.

(b)(i) For the purposes of this section, "parent-designated adult" means a parent-designated adult who: (A) Volunteers for the designation; (B) receives additional training from a health care professional or expert in care for epilepsy or other seizure disorders selected by the parents; and (C) provides care for the child consistent with the individual health plan.

(ii) A parent-designated adult may be a school district employee.

(4) Nothing in this section is intended to supersede or otherwise modify nurse delegation requirements established in RCW 18.79.260.

(5) This section applies beginning with the 2022-23 school year.

Sec. 2. RCW 28A.210.260 and 2019 c 314 s 41 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. Policies adopted in accordance with this subsection (1) may not permit a school nurse to delegate the responsibility to administer student medications to a parent-designated adult who is not a school employee;

(b) The board of directors shall seek advice from one or more licensed physicians or nurses in the course of developing the foregoing policies;

(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;

(d) The public school district or the private school is in receipt of: (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 (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;

(e) The medication is administered by an employee designated by or pursuant to the policies adopted pursuant to (a) of this subsection 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 ~~((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));~~

(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))~~

(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; and

(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 district employee who is not licensed under chapter 18.79 RCW chooses not to file a letter under this section, the employee (~~shall~~) may 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~~

(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 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.

(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 RCW 28A.210.390.

Sec. 3. RCW 28A.210.350 and 2002 c 350 s 4 are each amended to read as follows:

A school district, school district employee, agent, or parent-designated adult who, acting in good faith and in substantial compliance with the student's individual health plan and the instructions of the student's licensed health care professional, provides assistance or services under RCW 28A.210.330 or section 1 of this act shall not be liable in any criminal action or for civil damages in his or her individual or marital or governmental or corporate or other capacities as a result of the services provided under RCW 28A.210.330 to students with diabetes or under section 1 of this act to students with epilepsy or other seizure disorders.

NEW SECTION. Sec. 4. A new section is added to chapter 28A.235 RCW to read as follows:

By December 15, 2021, the Washington state school directors' association, in consultation with the office of the superintendent of public instruction, shall adopt a model policy and procedure that school districts may use to implement the requirements of section 1 of this act. The model policy and procedure must

be periodically reviewed by the Washington state school directors' association and may be revised as necessary.

Passed by the House February 25, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 30

[Engrossed House Bill 1090]

PRIVATE, FOR-PROFIT DETENTION FACILITIES

AN ACT Relating to private, for-profit detention facilities; adding a new chapter to Title 70 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. LEGISLATIVE FINDINGS. (1) The legislature finds that all people confined in prisons and detention facilities in Washington deserve basic health care, nutrition, and safety. As held in *United States v. California*, 921 F.3d 865, 886 (9th Cir. 2019), states possess "the general authority to ensure the health and welfare of inmates and detainees in facilities within its borders."

(2) The legislature finds that profit motives lead private prisons and detention facilities to cut operational costs, including the provision of food, health care, and rehabilitative services, because their primary fiduciary duty is to maximize shareholder profits. This is in stark contrast to the interests of the state to ensure the health, safety, and welfare of Washingtonians, including all inmates and detainees within Washington's borders.

(3) The legislature finds that people confined in for-profit prisons and detention facilities have experienced abuses and have been confined in dangerous and unsanitary conditions. Safety risks and abuses in private prisons and detention facilities at the local, state, and federal level have been consistently and repeatedly documented. The United States department of justice office of the inspector general found in 2016 that privately operated prisons "incurred more safety and security incidents per capita than comparable BOP [federal bureau of prisons] institutions." The office of inspector general additionally found that privately operated prisons had "higher rates of inmate-on-inmate and inmate-on-staff assaults, as well as higher rates of staff uses of force."

(4) The legislature finds that private prison operators have cut costs by reducing essential security and health care staffing. The sentencing project, a national research and advocacy organization, found in 2012 that private prison staff earn an average of five thousand dollars less than staff at publicly run facilities and receive almost 60 hours less training. The office of inspector general also found that people confined in private facilities often failed to receive necessary medical care and that one private prison went without a full-time physician for eight months.

(5) The legislature finds that private prisons and detention centers are less accountable for what happens inside those facilities than state-run facilities, as

they are not subject to the freedom of information act under 5 U.S.C. Sec. 552 or the Washington public records act under chapter 42.56 RCW.

(6) The legislature finds that at least 22 other states have stopped confining people in private for-profit facilities.

(7) Therefore, it is the intent of the legislature to prohibit the use of private, for-profit prisons and detention facilities in the state.

NEW SECTION. Sec. 2. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Detention facility" means any facility in which persons are incarcerated or otherwise involuntarily confined for purposes including prior to trial or sentencing, fulfilling the terms of a sentence imposed by a court, or for other judicial or administrative processes or proceedings.

(2) "Private detention facility" means a detention facility that is operated by a private, nongovernmental for-profit entity and operating pursuant to a contract or agreement with a federal, state, or local governmental entity.

NEW SECTION. Sec. 3. PROHIBITION ON PRIVATE INCARCERATION. (1) Except as provided in subsections (2) and (3) of this section, no person, business, or state or local governmental entity shall operate a private detention facility within the state or utilize a contract with a private detention facility within the state. No state or local governmental entity shall utilize a contract with a private detention facility outside of Washington state, except as provided in RCW 72.68.010(2).

(2) A private detention facility that is operating pursuant to a valid contract with a governmental entity that was in effect prior to January 1, 2021, may remain in operation for the duration of that contract, not to include any extensions or modifications made to, or authorized by, that contract.

(3) In accordance with the legislative findings in section 1 of this act, this section does not apply if the involuntary confinement is at:

(a) A facility providing rehabilitative, counseling, treatment, mental health, educational, or medical services to juveniles who are subject to Title 13 RCW, or similarly applicable federal law;

(b) A facility providing evaluation and treatment or forensic services to a person who has been civilly detained or is subject to an order of commitment by a court pursuant to chapter 10.77, 71.05, 71.09, or 71.34 RCW, or similarly applicable federal law;

(c) A facility used for the quarantine or isolation of persons for public health reasons pursuant to RCW 43.20.050, or similarly applicable federal law;

(d) A facility used for work release under chapter 72.65 RCW, or similarly applicable federal law;

(e) A facility used for extraordinary medical placement;

(f) A facility used for residential substance use disorder treatment;

(g) A facility used to house persons pursuant to 18 U.S.C. Sec. 4013; or

(h) A facility owned and operated by federally recognized tribes and contracting with a government.

NEW SECTION. Sec. 4. LIBERAL CONSTRUCTION. This act shall be construed liberally for the accomplishment of the purposes thereof.

NEW SECTION. Sec. 5. EMERGENCY CLAUSE. 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. 6. SEVERABILITY. 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. 7. CODIFICATION. Sections 1 through 3 of this act constitute a new chapter in Title 70 RCW.

Passed by the House February 23, 2021.

Passed by the Senate March 30, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 31

[House Bill 1104]

MORTGAGE LENDING FRAUD PROSECUTION ACCOUNT—EXTENSION

AN ACT Relating to extending the operation of the mortgage lending fraud prosecution account until June 30, 2027; amending RCW 36.22.181 and 43.320.140; providing expiration dates; and declaring an emergency.

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

Sec. 1. RCW 36.22.181 and 2016 c 7 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a surcharge of one dollar shall be charged by the county auditor at the time of recording of each deed of trust, which will be in addition to any other charge authorized by law. The auditor may retain up to five percent of the funds collected to administer collection. The remaining funds shall be transmitted monthly to the state treasurer who will deposit the funds into the mortgage lending fraud prosecution account created in RCW 43.320.140. The department of financial institutions is responsible for the distribution of the funds in the account and shall, in consultation with the attorney general and local prosecutors, develop rules for the use of these funds to pursue criminal prosecution of fraudulent activities within the mortgage lending process.

(2) The surcharge imposed in this section does not apply to assignments or substitutions of previously recorded deeds of trust.

(3) This section expires June 30, (~~2021~~) 2027.

Sec. 2. RCW 43.320.140 and 2016 c 7 s 1 are each amended to read as follows:

(1) The mortgage lending fraud prosecution account is created in the custody of the state treasurer. All receipts from the surcharge imposed in RCW 36.22.181, except those retained by the county auditor for administration, must be deposited into the account. Except as otherwise provided in this section, expenditures from the account may be used only for criminal prosecution of fraudulent activities related to mortgage lending fraud crimes. Only the director of the department of financial institutions 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) This section expires June 30, (~~2021~~) 2027.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House February 25, 2021.

Passed by the Senate March 30, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 32

[House Bill 1115]

STATE AGENCY FINANCIAL TRANSACTIONS—COST RECOVERY

AN ACT Relating to implementing cost recovery of state agency credit card and transaction fees and related costs for driver and vehicle fee transactions; adding new sections to chapter 46.01 RCW; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.01 RCW to read as follows:

The department must implement cost recovery mechanisms to recoup at least a portion of credit card and other financial transaction costs as part of charges imposed for driver and vehicle fee transactions. The department must develop a method of tracking the amount of credit card and other financial cost recovery revenues. The department must notify the state treasurer of these amounts and the state treasurer must deposit these revenues in the agency financial transaction account created in section 2 of this act on a quarterly basis.

NEW SECTION. Sec. 2. A new section is added to chapter 46.01 RCW to read as follows:

The agency financial transaction account is created in the state treasury. Receipts directed by law to the account from cost recovery charges for credit card and other financial transaction fees must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for paying credit card and financial transaction fees, and other related costs incurred by state agencies.

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, 2021.

Passed by the House March 2, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 33

[Substitute House Bill 1145]

PAPER CARRYOUT BAGS—NONWOOD RENEWABLE FIBER

AN ACT Relating to allowing the use of nonwood renewable fiber in recycled content paper carryout bags; and amending RCW 70A.530.010, 70A.530.020, and 70A.530.005.

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

Sec. 1. RCW 70A.530.010 and 2020 c 138 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) "Carryout bag" means any bag that is provided by a retail establishment at home delivery, the check stand, cash register, point of sale, or other point of departure to a customer for use to transport or carry away purchases.

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

(3) "Nonwood renewable fiber" means plant-based fiber derived from wheat straw grown in North America.

(4) "Pass-through charge" means a charge to be collected and retained by retail establishments from their customers when providing (~~recycled content~~) compliant paper carryout bags and reusable carryout bags made of film plastic.

~~((4))~~ (5) "~~Recycled content~~ Compliant paper carryout bag" means a paper carryout bag provided by a retail establishment to a customer that meets the requirements in RCW 70A.530.020(6)(a).

~~((5))~~ (6) "Retail establishment" means any person, corporation, partnership, business, facility, vendor, organization, or individual that sells or provides food, merchandise, goods, or materials directly to a customer including home delivery, temporary stores, or vendors at farmers markets, street fairs, and festivals.

~~((6))~~ (7) "Reusable carryout bag" means a carryout bag made of cloth or other durable material with handles that is specifically designed and manufactured for long-term multiple reuse and meets the requirements of RCW 70A.530.020(6)(b).

~~((7))~~ (8) "Single-use plastic carryout bag" means any carryout bag that is made from plastic that is designed and suitable only to be used once and disposed.

Sec. 2. RCW 70A.530.020 and 2020 c 138 s 3 are each amended to read as follows:

(1) Beginning January 1, 2021, except as provided in this section and RCW 70A.530.030, a retail establishment may not provide to a customer or a person at an event:

(a) A single-use plastic carryout bag;

(b) A paper carryout bag that does not meet the requirements of subsection (6)(a) of this section or a reusable carryout bag made of film plastic that does not meet recycled content requirements; or

(c) Beginning January 1, 2026, a reusable carryout bag made of film plastic with a thickness of less than four mils, in the event that the 2025 legislature does not amend this section to reflect the recommendations to the legislature made consistent with RCW 70A.530.060.

(2)(a) A retail establishment may provide a reusable carryout bag or a ~~((recycled content))~~ compliant paper carryout bag of any size to a customer at the point of sale. A retail establishment may make reusable carryout bags available to customers through sale.

(b)(i) Until December 31, 2025, a retail establishment must collect a pass-through charge of eight cents for every ~~((recycled content))~~ compliant paper carryout bag with a manufacturer's stated capacity of one-eighth barrel (eight hundred eighty-two cubic inches) or greater or reusable carryout bag made of film plastic it provides, except as provided in subsection (5) of this section and RCW 70A.530.030.

(ii) Beginning January 1, 2026, a retail establishment must collect a pass-through charge of twelve cents for reusable carryout bags made of film plastic and eight cents for ~~((recycled content))~~ compliant paper carryout bags, in the event that the 2025 legislature does not amend this section to reflect the recommendations to the legislature made consistent with RCW 70A.530.060. It is the intent of the legislature for the 2025 legislature to reassess the amount of the pass-through charge authorized under this subsection (2)(b), taking into consideration the content of the report to the legislature under RCW 70A.530.060.

(c) A retail establishment must keep all revenue from pass-through charges. The pass-through charge is a taxable retail sale. A retail establishment must show all pass-through charges on a receipt provided to the customer.

(3) Carryout bags provided by a retail establishment do not include:

(a) Bags used by consumers inside stores to:

(i) Package bulk items, such as fruit, vegetables, nuts, grains, candy, greeting cards, or small hardware items such as nails, bolts, or screws;

(ii) Contain or wrap items where dampness or sanitation might be a problem including, but not limited to:

(A) Frozen foods;

(B) Meat;

(C) Fish;

(D) Flowers; and

(E) Potted plants;

(iii) Contain unwrapped prepared foods or bakery goods;

(iv) Contain prescription drugs; or

(v) Protect a purchased item from damaging or contaminating other purchased items when placed in a ~~((recycled content))~~ compliant paper carryout bag or reusable carryout bag; or

(b) Newspaper bags, mailing pouches, sealed envelopes, door hanger bags, laundry/dry cleaning bags, or bags sold in packages containing multiple bags for uses such as food storage, garbage, or pet waste.

(4)(a) Any compostable film bag that a retail establishment provides to customers for products, including for products bagged in stores prior to checkout, must meet the requirements for compostable products and film bags in chapter ~~((70.360))~~ 70A.455 RCW.

(b) A retail establishment may not use or provide polyethylene or other noncompostable plastic bags for bagging of customer products in stores, as carryout bags, or for home delivery that do not meet the requirements for noncompostable products and film bags in chapter ~~((70.360))~~ 70A.455 RCW.

(5) Except as provided by local regulations enacted as of April 1, 2020, a retail establishment may provide a bag restricted under subsection (1) of this section from existing inventory until one year after June 11, 2020. The retail establishment, upon request by the department, must provide purchase invoices, distribution receipts, or other information documenting that the bag was acquired prior to June 11, 2020.

(6) For the purposes of this section:

(a) A (~~recycled content~~) compliant paper carryout bag must:

(i) Contain a minimum of forty percent postconsumer recycled materials, a minimum of 40 percent nonwood renewable fiber, or a combination of postconsumer recycled materials and nonwood renewable fiber that totals at least 40 percent;

(ii) Be capable of composting, consistent with the timeline and specifications of the entire American society of testing materials D6868 and associated test methods that must be met, as it existed as of January 1, 2020; and

(iii) Display in print on the exterior of the paper bag the minimum percentage of postconsumer content, wheat straw fiber content, or both.

(b) A reusable carryout bag must:

(i) Have a minimum lifetime of one hundred twenty-five uses, which for purposes of this subsection means the capacity to carry a minimum of twenty-two pounds one hundred twenty-five times over a distance of at least one hundred seventy-five feet;

(ii) Be machine washable or made from a durable material that may be cleaned or disinfected; and

(iii) If made of film plastic:

(A) Be made from a minimum of twenty percent postconsumer recycled content until July 1, 2022, and thereafter must be made from a minimum of forty percent postconsumer recycled content;

(B) Display in print on the exterior of the plastic bag the minimum percentage of postconsumer recycled content, the mil thickness, and that the bag is reusable; and

(C) Have a minimum thickness of no less than 2.25 mils until December 31, 2025, and beginning January 1, 2026, must have a minimum thickness of four mils.

(c) Except for the purposes of subsection (4) of this section, food banks and other food assistance programs are not retail establishments, but are encouraged to take actions to reduce the use of single-use plastic carryout bags.

Sec. 3. RCW 70A.530.005 and 2020 c 138 s 1 are each amended to read as follows:

(1) State policy has long placed waste reduction as the highest priority in the collection, handling, and management of solid waste. Reducing plastic bag waste holds particular importance among state waste reduction efforts for a number of reasons:

(a) Single-use plastic carryout bags are made of nonrenewable resources and never biodegrade; instead, over time, they break down into tiny particles. Single-use plastic carryout bags, and the particles they break into, are carried into rivers, lakes, Puget Sound, and the world's oceans, posing a threat to animal life and the food chain;

(b) Plastic bags are one of the most commonly found items that litter state roads, beaches, and other public spaces; and

(c) Even when plastic bags avoid the common fate of becoming litter, they are a drain on public resources and a burden on environment and resource conservation goals. For example, if plastic bags are disposed of in commingled recycling systems rather than as garbage or in retailer drop-off programs, they clog processing and sorting machinery, resulting in missorted materials and costly inefficiencies that are ultimately borne by utility ratepayers. Likewise, when green or brown-tinted plastic bags confuse consumers into attempting to dispose of them as compost, the resultant plastic contamination undercuts the ability to use the compost in gardens, farms, landscaping, and surface water and transportation projects.

(2) Alternatives to single-use plastic carryout bags are convenient, functional, widely available, and measure as superior across most environmental performance metrics. Alternatives to single-use plastic carryout bags feature especially superior environmental performance with respect to litter and marine debris, since plastic bags do not biodegrade.

(3) As of 2020, many local governments in Washington have shown leadership in regulating the use of single-use plastic carryout bags. This local leadership has shown the value of establishing state standards that will streamline regulatory inconsistency and reduce burdens on covered retailers caused by a patchwork of inconsistent local requirements across the state.

(4) Data provided from grocery retailers has shown that requests for paper bags have skyrocketed where plastic bag bans have been implemented. To accommodate the anticipated consequences of a statewide plastic bag ban, it is rational to expect additional capacity will be needed in Washington state for manufacturing paper bags. The legislature intends to provide that capacity by prioritizing and expediting siting and permitting of expansions or reconfiguring for paper manufacturing.

(5) Therefore, in order to reduce waste, litter, and marine pollution, conserve resources, and protect fish and wildlife, it is the intent of the legislature to:

(a) Prohibit the use of single-use plastic carryout bags;

(b) Require a pass-through charge on ~~((recycled content))~~ compliant paper carryout bags and reusable carryout bags made of film plastic, to encourage shoppers to bring their own reusable carryout bags;

(c) Require that bags provided by a retail establishment contain recycled content or derive from nonwood renewable fiber; and

(d) Encourage the provision of reusable and ~~((recycled content))~~ compliant paper carryout bags by retail establishments.

Passed by the House March 1, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 34

[House Bill 1159]

FIRE PROTECTION DISTRICT COMMISSIONERS—NUMBER

AN ACT Relating to the number of fire protection district commissioners; and amending RCW 52.14.015.

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

Sec. 1. RCW 52.14.015 and 2012 c 174 s 4 are each amended to read as follows:

In the event a (~~three member~~) board of commissioners of any fire protection district determines by resolution that it would be in the best interest of the district to increase the number of commissioners (~~from three~~) to five or seven, or in the event the board is presented with a petition signed by (~~ten~~) 10 percent of the registered voters resident within the district who voted in the last general municipal election calling for such an increase in the number of commissioners of the district, the board shall submit a resolution to the county legislative authority or authorities of the county or counties in which the district is located requesting that an election be held. Upon receipt of the resolution, the legislative authority or authorities of the county or counties shall call a special election to be held within the fire protection district at which election the following proposition shall be submitted to the voters substantially as follows:

Shall the board of commissioners of county fire protection district no. be increased from three or five members to five (~~(f)~~or seven) members?

Yes

No

If the fire protection district is located in more than a single county, this proposition shall indicate the name of the district.

If the proposition receives a majority approval at the election, the board of commissioners of the fire protection district shall be increased to five or seven members. The (~~two or four~~) additional members shall be appointed in the same manner as provided in RCW 52.14.020.

Passed by the House February 3, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 35

[Substitute House Bill 1171]

CHILD SUPPORT INCOME WITHHOLDING—FEDERAL REQUIREMENTS

AN ACT Relating to amending child support income withholding provisions to comply with federal child support program requirements; amending RCW 6.27.105, 6.27.140, 6.27.150, 6.27.330, 26.18.020, 26.18.080, 26.18.090, 26.18.110, 26.18.130, 26.18.140, 26.18.140, 26.23.010, 26.23.050, 26.23.050, 26.23.060, 74.20A.080, 74.20A.240, and 74.20A.350; reenacting and amending RCW 26.23.090; repealing RCW 26.18.100; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 6.27.105 and 2019 c 371 s 5 are each amended to read as follows:

(1) A writ that is issued for a continuing lien on earnings shall be substantially in the following form, but:

(a) ~~((If the writ is issued under an order or judgment for child support, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for child support";~~

~~(b)))~~ If the writ is issued under an order or judgment for private student loan debt, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for private student loan debt";

~~((c)))~~ (b) If the writ is issued under an order or judgment for consumer debt, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for consumer debt"; and

~~((d)))~~ (c) If the writ is issued by an attorney, the writ shall be revised as indicated in subsection (2) of this section:

"IN THE COURT
OF THE STATE OF WASHINGTON IN AND FOR
THE COUNTY OF

.....,
Plaintiff, No.
vs.
.....,
Defendant WRIT OF
GARNISHMENT FOR
CONTINUING LIEN ON
....., EARNINGS
Garnishee
THE STATE OF WASHINGTON TO:
Garnishee
AND TO:
Defendant

The above-named plaintiff has applied for a writ of garnishment against you, claiming that the above-named defendant is indebted to plaintiff and that the amount to be held to satisfy that indebtedness is \$, consisting of:

Balance on Judgment or Amount of Claim	\$
Interest under Judgment from to	\$
Per Day Rate of Estimated Interest	\$
	per day
Taxable Costs and Attorneys' Fees	\$
Estimated Garnishment Costs:	
Filing and Ex Parte Fees	\$

Service and Affidavit Fees	\$
Postage and Costs of Certified Mail	\$
Answer Fee or Fees	\$
Garnishment Attorney Fee	\$
Other	\$

THIS IS A WRIT FOR A CONTINUING LIEN. THE GARNISHEE SHALL HOLD the nonexempt portion of the defendant's earnings due at the time of service of this writ and shall also hold the defendant's nonexempt earnings that accrue through the last payroll period ending on or before SIXTY days after the date of service of this writ. HOWEVER, IF THE GARNISHEE IS PRESENTLY HOLDING THE NONEXEMPT PORTION OF THE DEFENDANT'S EARNINGS UNDER A PREVIOUSLY SERVED WRIT FOR A CONTINUING LIEN, THE GARNISHEE SHALL HOLD UNDER THIS WRIT only the defendant's nonexempt earnings that accrue from the date the previously served writ or writs terminate and through the last payroll period ending on or before sixty days after the date of termination of the previous writ or writs. IN EITHER CASE, THE GARNISHEE SHALL STOP WITHHOLDING WHEN THE SUM WITHHELD EQUALS THE AMOUNT STATED IN THIS WRIT OF GARNISHMENT.

YOU ARE HEREBY COMMANDED, unless otherwise directed by the court, by the attorney of record for the plaintiff, or by this writ, not to pay any debt, whether earnings subject to this garnishment or any other debt, owed to the defendant at the time this writ was served and not to deliver, sell, or transfer, or recognize any sale or transfer of, any personal property or effects of the defendant in your possession or control at the time when this writ was served. Any such payment, delivery, sale, or transfer is void to the extent necessary to satisfy the plaintiff's claim and costs for this writ with interest.

YOU ARE FURTHER COMMANDED to answer this writ according to the instructions in this writ and in the answer forms and, within twenty days after the service of the writ upon you, to mail or deliver the original of such answer to the court, one copy to the plaintiff or the plaintiff's attorney, and one copy to the defendant, at the addresses listed at the bottom of this writ.

If, at the time this writ was served, you owed the defendant any earnings (that is, wages, salary, commission, bonus, tips, or other compensation for personal services or any periodic payments pursuant to a nongovernmental pension or retirement program), the defendant is entitled to receive amounts that are exempt from garnishment under federal and state law. You must pay the exempt amounts to the defendant on the day you would customarily pay the compensation or other periodic payment. As more fully explained in the answer, the basic exempt amount is the greater of seventy-five percent of disposable earnings or a minimum amount determined by reference to the employee's pay period, to be calculated as provided in the answer. However, ~~((if this writ carries a statement in the heading of "This garnishment is based on a judgment or order for child support," the basic exempt amount is fifty percent of disposable earnings; and))~~ if this writ carries a statement in the heading of "This garnishment is based on a judgment or order for private student loan debt," the basic exempt amount is the greater of eighty-five percent of disposable earnings

or fifty times the minimum hourly wage of the highest minimum wage law in the state at the time the earnings are payable; and if this writ carries a statement in the heading of "This garnishment is based on a judgment or order for consumer debt," the basic exempt amount is the greater of eighty percent of disposable earnings or thirty-five times the state minimum hourly wage.

YOU MAY DEDUCT A PROCESSING FEE FROM THE REMAINDER OF THE EMPLOYEE'S EARNINGS AFTER WITHHOLDING UNDER THIS WRIT. THE PROCESSING FEE MAY NOT EXCEED TWENTY DOLLARS FOR THE FIRST ANSWER AND TEN DOLLARS AT THE TIME YOU SUBMIT THE SECOND ANSWER.

If you owe the defendant a debt payable in money in excess of the amount set forth in the first paragraph of this writ, hold only the amount set forth in the first paragraph and any processing fee if one is charged and release all additional funds or property to defendant.

IF YOU FAIL TO ANSWER THIS WRIT AS COMMANDED, A JUDGMENT MAY BE ENTERED AGAINST YOU FOR THE FULL AMOUNT OF THE PLAINTIFF'S CLAIM AGAINST THE DEFENDANT WITH ACCRUING INTEREST, ATTORNEY FEES, AND COSTS WHETHER OR NOT YOU OWE ANYTHING TO THE DEFENDANT. IF YOU PROPERLY ANSWER THIS WRIT, ANY JUDGMENT AGAINST YOU WILL NOT EXCEED THE AMOUNT OF ANY NONEXEMPT DEBT OR THE VALUE OF ANY NONEXEMPT PROPERTY OR EFFECTS IN YOUR POSSESSION OR CONTROL.

JUDGMENT MAY ALSO BE ENTERED AGAINST THE DEFENDANT FOR COSTS AND FEES INCURRED BY THE PLAINTIFF.

Witness, the Honorable, Judge of the above-entitled Court, and the seal thereof, this day of, (year)

[Seal]

.....
Attorney for	Clerk of the
Plaintiff (or	Court
Plaintiff, if no	
attorney)	
.....
Address	By
.....
Name of Defendant	Address"
.....	
Address of Defendant	

(2) If an attorney issues the writ of garnishment, the final paragraph of the writ, containing the date, and the subscribed attorney and clerk provisions, shall be replaced with text in substantially the following form:

"This writ is issued by the undersigned attorney of record for plaintiff under the authority of chapter 6.27 of the Revised Code of Washington, and must be complied with in the same manner as a writ issued by the clerk of the court.

Dated thisday of, (year)

.....

Attorney for Plaintiff

.....

Address

Address of the Clerk of the Court"

.....

Name of Defendant

.....

Address of Defendant

Sec. 2. RCW 6.27.140 and 2019 c 371 s 6 are each amended to read as follows:

(1) The notice required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in no smaller than size twelve point font:

NOTICE OF GARNISHMENT AND OF YOUR RIGHTS

A Writ of Garnishment issued in a Washington court has been or will be served on the garnishee named in the attached copy of the writ. After receipt of the writ, the garnishee is required to withhold payment of any money that was due to you and to withhold any other property of yours that the garnishee held or controlled. This notice of your rights is required by law.

YOU HAVE THE FOLLOWING EXEMPTION RIGHTS:

WAGES. If the garnishee is your employer who owes wages or other personal earnings to you, your employer is required to pay amounts to you that are exempt under state and federal laws, as explained in the writ of garnishment. You should receive a copy of your employer's answer, which will show how the exempt amount was calculated. ((If the garnishment is for child support, the exempt amount paid to you will be a percent of your disposable earnings, which is fifty percent of that part of your earnings remaining after your employer deducts those amounts which are required by law to be withheld.)) A garnishment against wages or other earnings for child support may not be issued under chapter 6.27 RCW. If the garnishment is for private student loan debt, the exempt amount paid to you will be the greater of the following: A percent of your disposable earnings, which is eighty-five percent of the part of your earnings remaining after your employer deducts those

amounts which are required by law to be withheld, or fifty times the minimum hourly wage of the highest minimum wage law in the state at the time the earnings are payable. If the garnishment is for consumer debt, the exempt amount paid to you will be the greater of the following: A percent of your disposable earnings, which is eighty percent of the part of your earnings remaining after your employer deducts those amounts which are required by law to be withheld, or thirty-five times the state minimum hourly wage.

BANK ACCOUNTS. If the garnishee is a bank or other institution with which you have an account in which you have deposited benefits such as Temporary Assistance for Needy Families, Supplemental Security Income (SSI), Social Security, veterans' benefits, unemployment compensation, or any federally qualified pension, such as a state or federal pension, individual retirement account (IRA), or 401K plan, you may claim the account as fully exempt if you have deposited only such benefit funds in the account. It may be partially exempt even though you have deposited money from other sources in the same account. An exemption is also available under RCW 26.16.200, providing that funds in a community bank account that can be identified as the earnings of a stepparent are exempt from a garnishment on the child support obligation of the parent.

OTHER EXEMPTIONS. If the garnishee holds other property of yours, some or all of it may be exempt under RCW 6.15.010, a Washington statute that exempts certain property of your choice (including up to \$2,500.00 in a bank account if you owe on private student loan debts; up to \$2,000.00 in a bank account if you owe on consumer debts; or up to \$500.00 in a bank account for all other debts) and certain other property such as household furnishings, tools of trade, and a motor vehicle (all limited by differing dollar values).

HOW TO CLAIM EXEMPTIONS. Fill out the enclosed claim form and mail or deliver it as described in instructions on the claim form. If the plaintiff does not object to your claim, the funds or other property that you have claimed as exempt must be released not later than 10 days after the plaintiff receives your claim form. If the plaintiff objects, the law requires a hearing not later than 14 days after the plaintiff receives your claim form, and notice of the objection and hearing date will be mailed to you at the address that you put on the claim form.

THE LAW ALSO PROVIDES OTHER EXEMPTION RIGHTS. IF NECESSARY, AN ATTORNEY CAN ASSIST YOU TO ASSERT THESE AND OTHER RIGHTS, BUT YOU MUST ACT IMMEDIATELY TO AVOID LOSS OF RIGHTS BY DELAY.

(2)(a) If the writ is to garnish funds or property held by a financial institution, the claim form required by RCW 6.27.130(1) to be mailed to or served on an individual judgment debtor shall be in the following form, printed or typed in no smaller than size twelve point font:

[Caption to be filled in by judgment creditor or plaintiff before mailing.]

Name of Court

..... No

Plaintiff,

vs.

..... EXEMPTION CLAIM

Defendant,

Garnishee Defendant

INSTRUCTIONS:

1. Read this whole form after reading the enclosed notice. Then put an X in the box or boxes that describe your exemption claim or claims and write in the necessary information on the blank lines. If additional space is needed, use the bottom of the last page or attach another sheet.
2. Make two copies of the completed form. Deliver the original form by first-class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first-class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 WEEKS) AFTER THE DATE ON THE WRIT.

I/We claim the following money or property as exempt:

IF BANK ACCOUNT IS GARNISHED:

- The account contains payments from:
 - Temporary assistance for needy families, SSI, or other public assistance. I receive \$ monthly.
 - Social Security. I receive \$ monthly.
 - Veterans' Benefits. I receive \$ monthly.

- Federally qualified pension, such as a state or federal pension, individual retirement account (IRA), or 401K plan. I receive \$ monthly.
- Unemployment Compensation. I receive \$ monthly.
- Child support. I receive \$ monthly.
- Other. Explain
- \$2,500 exemption for private student loan debts.
- \$2,000 exemption for consumer debts.
- \$500 exemption for all other debts.

IF EXEMPTION IN BANK ACCOUNT IS CLAIMED, ANSWER ONE OR BOTH OF THE FOLLOWING:

- No money other than from above payments are in the account.
- Moneys in addition to the above payments have been deposited in the account. Explain
.
.

OTHER PROPERTY:

- Describe property
.

(If you claim other personal property as exempt, you must attach a list of all other personal property that you own.)

.....

Print: Your name	If married or in a state registered domestic partnership, name of husband/wife/state registered domestic partner
------------------	--

.....

Your signature	Signature of husband, wife, or state registered domestic partner
----------------	--

.....

.....

Address	Address (if different from yours)
---------	--------------------------------------

.....

- 2. Make two copies of the completed form. Deliver the original form by first-class mail or in person to the clerk of the court, whose address is shown at the bottom of the writ of garnishment. Deliver one of the copies by first-class mail or in person to the plaintiff or plaintiff's attorney, whose name and address are shown at the bottom of the writ. Keep the other copy. YOU SHOULD DO THIS AS QUICKLY AS POSSIBLE, BUT NO LATER THAN 28 DAYS (4 WEEKS) AFTER THE DATE ON THE WRIT.

I/We claim the following money or property as exempt:

IF PENSION OR RETIREMENT BENEFITS ARE GARNISHED:

Name and address of employer who is paying the benefits:

.....

~~((IF EARNINGS ARE GARNISHED FOR CHILD SUPPORT:~~

~~I claim maximum exemption.))~~

IF EARNINGS ARE GARNISHED FOR PRIVATE STUDENT LOAN DEBT:

I claim maximum exemption.

IF EARNINGS ARE GARNISHED FOR CONSUMER DEBT:

I claim maximum exemption.

.....

Print: Your name	If married or in a state registered domestic partnership, name of husband/wife/state registered domestic partner
------------------	--

.....

Your signature	Signature of husband, wife, or state registered domestic partner
----------------	--

.....

.....

Address	Address
---------	---------

(if different from yours)

.....
Telephone number	Telephone number
	(if different from yours)

CAUTION: If the plaintiff objects to your claim, you will have to go to court and give proof of your claim. For example, if you claim that a bank account is exempt, you may have to show the judge your bank statements and papers that show the source of the money you deposited in the bank. Your claim may be granted more quickly if you attach copies of such proof to your claim.

IF THE JUDGE DENIES YOUR EXEMPTION CLAIM, YOU WILL HAVE TO PAY THE PLAINTIFF'S COSTS. IF THE JUDGE DECIDES THAT YOU DID NOT MAKE THE CLAIM IN GOOD FAITH, HE OR SHE MAY DECIDE THAT YOU MUST PAY THE PLAINTIFF'S ATTORNEY FEES.

~~(c) ((If the writ under (b) of this subsection is not a writ for the collection of child support, the exemption language pertaining to child support may be omitted.~~

~~((d))~~ If the writ under (b) of this subsection is not a writ for the collection of private student loan debt, the exemption language pertaining to private student loan debt may be omitted.

~~((e))~~ (d) If the writ under (b) of this subsection is not a writ for the collection of consumer debt, the exemption language pertaining to consumer debt may be omitted.

Sec. 3. RCW 6.27.150 and 2019 c 371 s 7 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, if the garnishee is an employer owing the defendant earnings, then for each week of such earnings, an amount shall be exempt from garnishment which is the greatest of the following:

(a) Thirty-five times the federal minimum hourly wage in effect at the time the earnings are payable; or

(b) Seventy-five percent of the disposable earnings of the defendant.

(2) In the case of a garnishment based on a ~~((judgment or other order for child support or))~~ court order for spousal maintenance, other than a mandatory wage assignment order pursuant to chapter 26.18 RCW, or a mandatory assignment of retirement benefits pursuant to chapter 41.50 RCW, the exemption shall be fifty percent of the disposable earnings of the defendant.

(3) In the case of a garnishment based on a judgment or other order for the collection of private student loan debt, for each week of such earnings, an amount shall be exempt from garnishment which is the greater of the following:

(a) Fifty times the minimum hourly wage of the highest minimum wage law in the state at the time the earnings are payable; or

(b) Eighty-five percent of the disposable earnings of the defendant.

(4) In the case of a garnishment based on a judgment or other order for the collection of consumer debt, for each week of such earnings, an amount shall be exempt from garnishment which is the greater of the following:

(a) Thirty-five times the state minimum hourly wage; or

(b) Eighty percent of the disposable earnings of the defendant.

(5) The exemptions stated in this section shall apply whether such earnings are paid, or are to be paid, weekly, monthly, or at other intervals, and whether earnings are due the defendant for one week, a portion thereof, or for a longer period.

(6) Unless directed otherwise by the court, the garnishee shall determine and deduct exempt amounts under this section as directed in the writ of garnishment and answer, and shall pay these amounts to the defendant.

(7) No money due or earned as earnings as defined in RCW 6.27.010 shall be exempt from garnishment under the provisions of RCW 6.15.010, as now or hereafter amended.

Sec. 4. RCW 6.27.330 and 2012 c 159 s 13 are each amended to read as follows:

(1) A judgment creditor may obtain a continuing lien on earnings by a garnishment pursuant to this chapter, except as provided in subsection (2) of this section.

(2) A continuing lien on earnings may not be issued pursuant to this chapter if the garnishment is based on a judgment or other order for child support. A judgment creditor may seek to withhold from earnings based on a judgment or other order for child support under chapter 26.18 RCW.

Sec. 5. RCW 26.18.020 and 2018 c 150 s 102 are each amended to read as follows:

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

(1) "Dependent child" means any child for whom a support order has been established or for whom a duty of support is owed.

(2) "Duty of maintenance" means the duty to provide for the needs of a spouse or former spouse or domestic partner or former domestic partner imposed under chapter 26.09 RCW.

(3) "Duty of support" means the duty to provide for the needs of a dependent child, which may include necessary food, clothing, shelter, education, and health care. The duty includes any obligation to make monetary payments, to pay expenses, including maintenance in cases in which there is a dependent child, or to reimburse another person or an agency for the cost of necessary support furnished a dependent child. The duty may be imposed by court order, by operation of law, or otherwise.

(4) "Obligee" means the custodian of a dependent child, the spouse or former spouse or domestic partner or former domestic partner, or person or agency, to whom a duty of support or duty of maintenance is owed, or the person or agency to whom the right to receive or collect support or maintenance has been assigned.

(5) "Obligor" means the person owing a duty of support or duty of maintenance.

(6) "Support or maintenance order" means any judgment, decree, or order of support or maintenance issued by the superior court or authorized agency of the state of Washington; or a judgment, decree, or other order of support or maintenance issued by a court or agency of competent jurisdiction in another

state or country, which has been registered or otherwise made enforceable in this state.

(7) "Employer" includes the United States government, a state or local unit of government, and any person or entity who pays or owes earnings or remuneration for employment to the obligor.

(8) "Earnings" means compensation paid or payable for personal services or remuneration for employment, whether denominated as wages, salary, commission, bonus, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy support or maintenance obligations, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(9) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld.

(10) "Department" means the department of social and health services.

(11) "Health insurance coverage" is another term for, and included in the definition of, "health care coverage." Health insurance coverage includes any coverage under which medical services are provided by an employer or a union whether that coverage is provided through a self-insurance program, under the employee retirement income security act of 1974, a commercial insurer pursuant to chapters 48.20 and 48.21 RCW, a health care service contractor pursuant to chapter 48.44 RCW, or a health maintenance organization pursuant to chapter 48.46 RCW, and the state through chapter 41.05 RCW.

(12) "Insurer" means a commercial insurance company providing disability insurance under chapter 48.20 or 48.21 RCW, a health care service contractor providing health care coverage under chapter 48.44 RCW, a health maintenance organization providing comprehensive health care services under chapter 48.46 RCW, and shall also include any employer or union which is providing health insurance coverage on a self-insured basis.

(13) "Remuneration for employment" means moneys due from or payable by the United States to an individual within the scope of 42 U.S.C. Sec. 659 and 42 U.S.C. Sec. 662(f).

(14) "Health care coverage" means fee for service, health maintenance organization, preferred provider organization, and other types of private health insurance and public health care coverage under which medical services could be provided to a dependent child or children. The term "health care coverage" includes, but is not limited to, health insurance coverage.

(15) "Public health care coverage," sometimes called "state purchased health care," means state-financed or federally financed medical coverage, whether or not there is an assignment of rights. For children residing in Washington state, this includes coverage through the department of social and health services or the health care authority, except for coverage under chapter 41.05 RCW; for children residing outside of Washington, this includes coverage through another state's agencies that administer state purchased health care programs.

(16) "Income withholding order" means an order regarding withholding of income of amounts payable as a support obligation that complies with the requirements in 42 U.S.C. Sec. 666.

Sec. 6. RCW 26.18.080 and 1987 c 435 s 19 are each amended to read as follows:

(1) Upon receipt of a petition or motion seeking a mandatory wage assignment that complies with RCW 26.18.070, the court shall issue ~~((a))~~: (a) A wage assignment order~~((, as provided in RCW 26.18.100 and))~~ for unpaid maintenance; (b) an income withholding order for unpaid child support; or (c) an income withholding order for unpaid maintenance and unpaid child support, including the information required in RCW 26.18.090~~((+))~~, directed to the employer, and commanding the employer to answer the order on the forms served with the order that comply with RCW 26.18.120 within twenty days after service of the order upon the employer.

(2) The clerk of the court shall forward a copy of the mandatory wage assignment or income withholding order, a true and correct copy of the support orders in the court file, and a statement containing the obligee's address and social security number shall be forwarded to the Washington state support registry within five days of the entry of the order.

Sec. 7. RCW 26.18.090 and 2008 c 6 s 1032 are each amended to read as follows:

(1) The wage assignment order in RCW 26.18.080 for unpaid maintenance only shall include:

(a) The maximum amount of current ~~((support or))~~ maintenance, if any, to be withheld from the obligor's earnings each month, or from each earnings disbursement; and

(b) The total amount of the arrearage or reimbursement judgment previously entered by the court, if any, together with interest, if any.

(2) The total amount to be withheld from the obligor's earnings each month, or from each earnings disbursement, shall not exceed fifty percent of the disposable earnings of the obligor. If the amounts to be paid toward the arrearage are specified in the ~~((support or))~~ maintenance order, then the maximum amount to be withheld is the sum of: Either the current support or maintenance ordered, or both; and the amount ordered to be paid toward the arrearage, or fifty percent of the disposable earnings of the obligor, whichever is less.

(3) The provisions of RCW 6.27.150 do not apply to wage assignments for ~~((child support or))~~ maintenance authorized under this chapter, but fifty percent of the disposable earnings of the obligor are exempt, and may be disbursed to the obligor.

(4) ~~((If an obligor is subject to two or more attachments for child support on account of different obligees, the employer shall, if the nonexempt portion of the obligor's earnings is not sufficient to respond fully to all the attachments, apportion the obligor's nonexempt disposable earnings between or among the various obligees equally. Any obligee may seek a court order reapportioning the obligor's nonexempt disposable earnings upon notice to all interested obligees. Notice shall be by personal service, or in the manner provided by the civil rules of superior court or applicable statute.~~

(5)) If an obligor is subject to two or more attachments for maintenance on account of different obligees, the employer shall, if the nonexempt portion of the obligor's earnings is not sufficient to respond fully to all the attachments, apportion the obligor's nonexempt disposable earnings between or among the various obligees equally. An obligee may seek a court order reapportioning the obligor's nonexempt disposable earnings upon notice to all interested obligees. Notice shall be by personal service, or in the manner provided by the civil rules of superior court or applicable statute.

(5) An income withholding order for unpaid child support or unpaid child support and unpaid maintenance shall meet federal requirements in 42 U.S.C. Sec. 666.

NEW SECTION. Sec. 8. RCW 26.18.100 (Wage assignment order—Form) and 2016 c 202 s 24, 2008 c 6 s 1033, & 1998 c 77 s 1 are each repealed.

Sec. 9. RCW 26.18.110 and 2008 c 6 s 1034 are each amended to read as follows:

(1) An employer upon whom service of a wage assignment order or income withholding order has been made shall answer the order by sworn affidavit within twenty days after the date of service. The answer shall state whether the obligor is employed by or receives earnings or other remuneration from the employer, whether the employer will honor the wage assignment order or income withholding order, and whether there are either multiple child support or maintenance attachments, or both, against the obligor.

(2) If the employer possesses any earnings or remuneration due and owing to the obligor, the earnings subject to the wage assignment order or income withholding order shall be withheld immediately upon receipt of the wage assignment order or income withholding order. The withheld earnings shall be delivered to the Washington state support registry or, if the wage assignment order is to satisfy a duty of maintenance, to the addressee specified in the assignment within five working days of each regular pay interval.

(3) The employer shall continue to withhold the ordered amounts from nonexempt earnings or remuneration of the obligor until notified by:

(a) The court that the wage assignment has been modified or terminated; or

(b) ~~((The))~~ In the case of an income withholding order, the Washington state support registry ~~((or obligee))~~ that the accrued child support or maintenance debt has been paid ~~((, provided the wage assignment order contains the language set forth under RCW 26.18.100(3)(b)))~~. The employer shall promptly notify the addressee specified in the assignment when the employee is no longer employed. If the employer no longer employs the employee, the wage assignment order shall remain in effect for one year after the employee has left the employment or the employer has been in possession of any earnings or remuneration owed to the employee, whichever is later. The employer shall continue to hold the wage assignment order during that period. If the employee returns to the employer's employment during the one-year period the employer shall immediately begin to withhold the employee's earnings or remuneration according to the terms of the wage assignment order. If the employee has not returned within one year, the wage assignment shall cease to have effect at the expiration of the one-year period, unless the employer continues to owe remuneration for employment to the obligor.

(4) The employer may deduct a processing fee from the remainder of the employee's earnings after withholding under the wage assignment order or income withholding order, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed (a) ten dollars for the first disbursement made by the employer to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the clerk.

(5) An income withholding order (~~(for wage assignment)~~) for support for a dependent child entered under this chapter shall have priority over any other wage assignment or garnishment, except for another wage assignment or garnishment for child support, or order to withhold and deliver under chapter 74.20A RCW. An order for wage assignment for spousal maintenance entered under this chapter shall have priority over any other wage assignment or garnishment, except for a wage assignment, garnishment, or order to withhold and deliver under chapter 74.20A RCW for support of a dependent child, and except for another wage assignment or garnishment for maintenance.

(6) An employer who fails to withhold earnings as required by a wage assignment order or income withholding order issued under this chapter may be held liable to the obligee for one hundred percent of the support or maintenance debt, or the amount of support or maintenance moneys that should have been withheld from the employee's earnings whichever is the lesser amount, if the employer:

(a) Fails or refuses, after being served with a wage assignment order or income withholding order, to deduct and promptly remit from the unpaid earnings the amounts of money required in the order;

(b) Fails or refuses to submit an answer to the notice of wage assignment or income withholding after being served; or

(c) Is unwilling to comply with the other requirements of this section.

Liability may be established in superior court. Awards in superior court shall include costs, interest under RCW 19.52.020 and 4.56.110, and reasonable attorneys' fees.

(7) No employer who complies with a wage assignment order or income withholding order issued under this chapter may be liable to the employee for wrongful withholding.

(8) No employer may discharge, discipline, or refuse to hire an employee because of the entry or service of a wage assignment or income withholding order issued and executed under this chapter. If an employer discharges, disciplines, or refuses to hire an employee in violation of this section, the employee or person shall have a cause of action against the employer. The employer shall be liable for double the amount of damages suffered as a result of the violation and for costs and reasonable attorneys' fees, and shall be subject to a civil penalty of not more than two thousand five hundred dollars for each violation. The employer may also be ordered to hire, rehire, or reinstate the aggrieved individual.

(9) For wage assignments or income withholding payable to the Washington state support registry, an employer may combine amounts withheld from various employees into a single payment to the Washington state support registry, if the payment includes a listing of the amounts attributable to each employee and other information as required by the registry.

(10) An employer shall deliver a copy of the wage assignment order or income withholding order to the obligor as soon as is reasonably possible.

Sec. 10. RCW 26.18.130 and 1987 c 435 s 22 are each amended to read as follows:

(1) Service of the wage assignment order or income withholding order on the employer is invalid unless it is served with five answer forms in substantial conformance with RCW 26.18.120, together with stamped envelopes addressed to, respectively, the clerk of the court where the order was issued, the Washington state support registry, the obligee's attorney or the obligee, and the obligor. The obligee shall also include an extra copy of the wage assignment order or income withholding order for the employer to deliver to the obligor. Service on the employer shall be in person or by any form of mail requiring a return receipt.

(2) On or before the date of service of the wage assignment order or income withholding order on the employer, the obligee shall mail or cause to be mailed by certified mail a copy of the wage assignment order or income withholding order to the obligor at the obligor's last known post office address; or, in the alternative, a copy of the wage assignment order or income withholding order shall be served on the obligor in the same manner as a summons in a civil action on, before, or within two days after the date of service of the order on the employer. This requirement is not jurisdictional, but if the copy is not mailed or served as this subsection provides, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion, may quash the wage assignment order or income withholding order, upon motion of the obligor promptly made and supported by an affidavit showing that the obligor has suffered substantial injury due to the failure to mail or serve the copy.

Sec. 11. RCW 26.18.140 and 2008 c 6 s 1036 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, in a hearing to quash, modify, or terminate the wage assignment order or income withholding order, the court may grant relief only upon a showing that the wage assignment order or income withholding order causes extreme hardship or substantial injustice. Satisfaction by the obligor of all past due payments subsequent to the issuance of the wage assignment order or income withholding order is not grounds to quash, modify, or terminate the wage assignment order or income withholding order. If a wage assignment order or income withholding order has been in operation for twelve consecutive months and the obligor's support or maintenance obligation is current, the court may terminate the order upon motion of the obligor unless the obligee can show good cause as to why the wage assignment order or income withholding order should remain in effect.

(2) The court may enter an order delaying, modifying, or terminating the wage assignment order or income withholding order and order the obligor to make payments directly to the obligee as provided in RCW 26.23.050(2).

Sec. 12. RCW 26.23.010 and 1987 c 435 s 1 are each amended to read as follows:

The legislature recognizes the financial impact on custodial parents and children when child support is not received on time, or in the correct amount. The legislature also recognizes the burden placed upon the responsible parent

and the second family when enforcement action must be taken to collect delinquent support.

It is the intent of the legislature to create a central Washington state support registry to improve the recordkeeping of support obligations and payments, thereby providing protection for both parties, and reducing the burden on employers by creating a single standardized process through which support payments are deducted from earnings.

It is also the intent of the legislature that child support payments be made through ~~((mandatory wage assignment or payroll deduction))~~ income withholding if the responsible parent becomes delinquent in making support payments under a court or administrative order for support.

To that end, it is the intent of the legislature to interpret all existing statutes and processes to give effect to, and to implement, one central registry for recording and distributing support payments in this state.

Sec. 13. RCW 26.23.050 and 2019 c 46 s 5026 are each amended to read as follows:

(1) If the division of child support is providing support enforcement services under RCW 26.23.045, or if a party is applying for support enforcement services by signing the application form on the bottom of the support order, the superior court shall include in all court orders that establish or modify a support obligation:

(a) A provision that orders and directs the responsible parent to make all support payments to the Washington state support registry;

(b) A statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent at any time after entry of the court order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(c) A statement that the receiving parent might be required to submit an accounting of how the support, including any cash medical support, is being spent to benefit the child;

(d) A statement that any parent required to provide health care coverage for the child or children covered by the order must notify the division of child support and the other parent when the coverage terminates; and

(e) A statement that the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as provided in RCW 74.20A.320.

As used in this subsection and subsection (3) of this section, "good cause not to require immediate income withholding" means a written determination of why implementing immediate wage withholding would not be in the child's best interests and, in modification cases, proof of timely payment of previously ordered support.

(2) In all other cases not under subsection (1) of this section, the court may order the responsible parent to make payments directly to the person entitled to receive the payments, to the Washington state support registry, or may order that payments be made in accordance with an alternate arrangement agreed upon by the parties.

(a) The superior court shall include in all orders under this subsection that establish or modify a support obligation:

(i) A statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent at any time after entry of the court order, unless:

(A) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due; or

(B) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(ii) A statement that the receiving parent may be required to submit an accounting of how the support is being spent to benefit the child;

(iii) A statement that any parent required to provide health care coverage for the child or children covered by the order must notify the division of child support and the other parent when the coverage terminates; and

(iv) A statement that a parent seeking to enforce the obligation to provide health care coverage may:

(A) File a motion in the underlying superior court action; or

(B) If there is not already an underlying superior court action, initiate an action in the superior court.

As used in this subsection, "good cause not to require immediate income withholding" is any reason that the court finds appropriate.

(b) The superior court may order immediate or delayed income withholding as follows:

(i) Immediate income withholding may be ordered if the responsible parent has earnings. If immediate income withholding is ordered under this subsection, all support payments shall be paid to the Washington state support registry. The superior court shall issue a mandatory wage assignment order as set forth in chapter 26.18 RCW when the support order is signed by the court. The parent entitled to receive the transfer payment is responsible for serving the employer with the order and for its enforcement as set forth in chapter 26.18 RCW.

(ii) If immediate income withholding is not ordered, the court shall require that income withholding be delayed until a payment is past due. The support order shall contain a statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent, after a payment is past due.

(c) If a mandatory (~~wage~~) income withholding order under chapter 26.18 RCW is issued under this subsection and the division of child support provides support enforcement services under RCW 26.23.045, the existing wage withholding assignment is prospectively superseded upon the division of child support's subsequent service of an income withholding (~~notice~~) order.

(3) The office of administrative hearings and the department of social and health services shall require that all support obligations established as administrative orders include a provision which orders and directs that the responsible parent shall make all support payments to the Washington state support registry. All administrative orders shall also state that the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as provided in RCW 74.20A.320. All administrative orders shall also state that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state without further notice to the responsible parent at any time after entry of the order, unless:

(a) One of the parties demonstrates, and the presiding officer finds, that there is good cause not to require immediate income withholding; or

(b) The parties reach a written agreement that is approved by the presiding officer that provides for an alternate agreement.

(4) If the support order does not include the provision ordering and directing that all payments be made to the Washington state support registry and a statement that withholding action may be taken against wages, earnings, assets, or benefits if a support payment is past due or at any time after the entry of the order, or that a parent's licensing privileges may not be renewed, or may be suspended, the division of child support may serve a notice on the responsible parent stating such requirements and authorizations. Service may be by personal service or any form of mail requiring a return receipt.

(5) Every support order shall state:

(a) The address where the support payment is to be sent;

(b) That withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the responsible parent at any time after entry of a support order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(c) The income of the parties, if known, or that their income is unknown and the income upon which the support award is based;

(d) The support award as a sum certain amount;

(e) The specific day or date on which the support payment is due;

(f) The names and ages of the dependent children;

(g) A provision requiring both the responsible parent and the custodial parent to keep the Washington state support registry informed of whether he or she has access to health care coverage at reasonable cost and, if so, the health care coverage information;

(h) That either or both the responsible parent and the custodial parent shall be obligated to provide medical support for his or her child through health care coverage if:

(i) The obligated parent provides accessible coverage for the child through private or public health care coverage; or

(ii) Coverage that can be extended to cover the child is or becomes available to the parent through employment or is union-related; or

(iii) In the absence of such coverage, through an additional sum certain amount, as that parent's monthly payment toward the premium as provided under RCW 26.09.105;

(i) That a parent providing health care coverage must notify both the division of child support and the other parent when coverage terminates;

(j) That if proof of health care coverage or proof that the coverage is unavailable is not provided within twenty days, the parent seeking enforcement or the department may seek direct enforcement of the coverage through the employer or union of the parent required to provide medical support without further notice to the parent as provided under chapter 26.18 RCW;

(k) The reasons for not ordering health care coverage if the order fails to require such coverage;

(l) That the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as provided in RCW 74.20A.320;

(m) That each parent must:

(i) Promptly file with the court and update as necessary the confidential information form required by subsection (7) of this section; and

(ii) Provide the state case registry and update as necessary the information required by subsection (7) of this section; and

(n) That parties to administrative support orders shall provide to the state case registry and update as necessary their residential addresses and the address of the responsible parent's employer. The division of child support may adopt rules that govern the collection of parties' current residence and mailing addresses, telephone numbers, dates of birth, social security numbers, the names of the children, social security numbers of the children, dates of birth of the children, driver's license numbers, and the names, addresses, and telephone numbers of the parties' employers to enforce an administrative support order. The division of child support shall not release this information if the division of child support determines that there is reason to believe that release of the information may result in physical or emotional harm to the party or to the child, or a restraining order or protective order is in effect to protect one party from the other party.

(6) After the responsible parent has been ordered or notified to make payments to the Washington state support registry under this section, the responsible parent shall be fully responsible for making all payments to the Washington state support registry and shall be subject to payroll deduction or other income-withholding action. The responsible parent shall not be entitled to credit against a support obligation for any payments made to a person or agency other than to the Washington state support registry except as provided under RCW 74.20.101. A civil action may be brought by the payor to recover payments made to persons or agencies who have received and retained support moneys paid contrary to the provisions of this section.

(7) All petitioners and parties to all court actions under chapters 26.09, 26.10, 26.12, 26.18, 26.21A, 26.23, 26.26A, 26.26B, and 26.27 RCW shall complete to the best of their knowledge a verified and signed confidential

information form or equivalent that provides the parties' current residence and mailing addresses, telephone numbers, dates of birth, social security numbers, driver's license numbers, and the names, addresses, and telephone numbers of the parties' employers. The clerk of the court shall not accept petitions, except in parentage actions initiated by the state, orders of child support, decrees of dissolution, or parentage orders for filing in such actions unless accompanied by the confidential information form or equivalent, or unless the confidential information form or equivalent is already on file with the court clerk. In lieu of or in addition to requiring the parties to complete a separate confidential information form, the clerk may collect the information in electronic form. The clerk of the court shall transmit the confidential information form or its data to the division of child support with a copy of the order of child support or parentage order, and may provide copies of the confidential information form or its data and any related findings, decrees, parenting plans, orders, or other documents to the state administrative agency that administers Title IV-A, IV-D, IV-E, or XIX of the federal social security act. In state initiated parentage actions, the parties adjudicated the parents of the child or children shall complete the confidential information form or equivalent or the state's attorney of record may complete that form to the best of the attorney's knowledge.

(8) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-making authority to implement regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and 308.

Sec. 14. RCW 26.23.050 and 2020 c 227 s 9 are each amended to read as follows:

(1) If the division of child support is providing support enforcement services under RCW 26.23.045, or if a party is applying for support enforcement services by signing the application form on the bottom of the support order, the superior court shall include in all court orders that establish or modify a support obligation:

(a) A provision that orders and directs the person required to pay support to make all support payments to the Washington state support registry;

(b) A statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the person required to pay support at any time after entry of the court order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(c) A statement that the payee under the order or the person entitled to receive support might be required to submit an accounting of how the support, including any cash medical support, is being spent to benefit the child;

(d) A statement that a party to the support order who is required to provide health care coverage for the child or children covered by the order must notify

the division of child support and the other party to the support order when the coverage terminates;

(e) A statement that any privilege of the person required to pay support to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the person is not in compliance with a support order as provided in RCW 74.20A.320; and

(f) A statement that the support obligation under the order may be abated as provided in RCW 26.09.320 if the person required to pay support is confined in a jail, prison, or correctional facility for at least six months, or is serving a sentence greater than six months in a jail, prison, or correctional facility.

As used in this subsection and subsection (3) of this section, "good cause not to require immediate income withholding" means a written determination of why implementing immediate wage withholding would not be in the child's best interests and, in modification cases, proof of timely payment of previously ordered support.

(2) In all other cases not under subsection (1) of this section, the court may order the person required to pay support to make payments directly to the person entitled to receive the payments, to the Washington state support registry, or may order that payments be made in accordance with an alternate arrangement agreed upon by the parties.

(a) The superior court shall include in all orders under this subsection that establish or modify a support obligation:

(i) A statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the person required to pay support at any time after entry of the court order, unless:

(A) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding and that withholding should be delayed until a payment is past due; or

(B) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(ii) A statement that the payee under the order or the person entitled to receive support may be required to submit an accounting of how the support is being spent to benefit the child;

(iii) A statement that any party to the order required to provide health care coverage for the child or children covered by the order must notify the division of child support and the other party to the order when the coverage terminates; and

(iv) A statement that a party to the order seeking to enforce the other party's obligation to provide health care coverage may:

(A) File a motion in the underlying superior court action; or

(B) If there is not already an underlying superior court action, initiate an action in the superior court.

As used in this subsection, "good cause not to require immediate income withholding" is any reason that the court finds appropriate.

(b) The superior court may order immediate or delayed income withholding as follows:

(i) Immediate income withholding may be ordered if the person required to pay support has earnings. If immediate income withholding is ordered under this subsection, all support payments shall be paid to the Washington state support registry. The superior court shall issue a mandatory wage assignment order as set forth in chapter 26.18 RCW when the support order is signed by the court. The payee under the order or the person entitled to receive the transfer payment is responsible for serving the employer with the order and for its enforcement as set forth in chapter 26.18 RCW.

(ii) If immediate income withholding is not ordered, the court shall require that income withholding be delayed until a payment is past due. The support order shall contain a statement that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state, without further notice to the person required to pay support, after a payment is past due.

(c) If a mandatory (~~wage~~) income withholding order under chapter 26.18 RCW is issued under this subsection and the division of child support provides support enforcement services under RCW 26.23.045, the existing wage withholding assignment is prospectively superseded upon the division of child support's subsequent service of an income withholding (~~notice~~) order.

(3) The office of administrative hearings and the department of social and health services shall require that all support obligations established as administrative orders include a provision which orders and directs that the person required to pay support shall make all support payments to the Washington state support registry. All administrative orders shall also state that any privilege of the person required to pay support to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the person is not in compliance with a support order as provided in RCW 74.20A.320. All administrative orders shall also state that withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child support statutes of this or any other state without further notice to the person required to pay support at any time after entry of the order, unless:

(a) One of the parties demonstrates, and the presiding officer finds, that there is good cause not to require immediate income withholding; or

(b) The parties reach a written agreement that is approved by the presiding officer that provides for an alternate agreement.

(4) If the support order does not include the provision ordering and directing that all payments be made to the Washington state support registry and a statement that withholding action may be taken against wages, earnings, assets, or benefits if a support payment is past due or at any time after the entry of the order, or that licensing privileges of the person required to pay support may not be renewed, or may be suspended, the division of child support may serve a notice on the person stating such requirements and authorizations. Service may be by personal service or any form of mail requiring a return receipt.

(5) Every support order shall state:

(a) The address where the support payment is to be sent;

(b) That withholding action may be taken against wages, earnings, assets, or benefits, and liens enforced against real and personal property under the child

support statutes of this or any other state, without further notice to the person required to pay support at any time after entry of a support order, unless:

(i) One of the parties demonstrates, and the court finds, that there is good cause not to require immediate income withholding; or

(ii) The parties reach a written agreement that is approved by the court that provides for an alternate arrangement;

(c) The income of the parties, if known, or that their income is unknown and the income upon which the support award is based;

(d) The support award as a sum certain amount;

(e) The specific day or date on which the support payment is due;

(f) The names and ages of the dependent children;

(g) A provision requiring both the person required to pay support, and the payee under the order or the person entitled to receive support who is a parent of the child or children covered by the order, to keep the Washington state support registry informed of whether he or she has access to health care coverage at reasonable cost and, if so, the health care coverage information;

(h) That either or both the person required to pay support, and the payee under the order or the person entitled to receive support who is a parent of the child or children covered by the order, shall be obligated to provide medical support for a child or children covered by the order through health care coverage if:

(i) The person obligated to provide medical support provides accessible coverage for the child or children through private or public health care coverage; or

(ii) Coverage that can be extended to cover the child or children is or becomes available to the person obligated to provide medical support through employment or is union-related; or

(iii) In the absence of such coverage, through an additional sum certain amount, as that obligated person's monthly payment toward the premium as provided under RCW 26.09.105;

(i) That a person obligated to provide medical support who is providing health care coverage must notify both the division of child support and the other party to the order when coverage terminates;

(j) That if proof of health care coverage or proof that the coverage is unavailable is not provided within twenty days, the person seeking enforcement or the department may seek direct enforcement of the coverage through the employer or union of the person required to provide medical support without further notice to the person as provided under chapter 26.18 RCW;

(k) The reasons for not ordering health care coverage if the order fails to require such coverage;

(l) That any privilege of the person required to pay support to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the person is not in compliance with a support order as provided in RCW 74.20A.320;

(m) That each party to the support order must:

(i) Promptly file with the court and update as necessary the confidential information form required by subsection (7) of this section; and

(ii) Provide the state case registry and update as necessary the information required by subsection (7) of this section; and

(n) That parties to administrative support orders shall provide to the state case registry and update as necessary their residential addresses and the address of the employer of the person required to pay support. The division of child support may adopt rules that govern the collection of parties' current residence and mailing addresses, telephone numbers, dates of birth, social security numbers, the names of the children, social security numbers of the children, dates of birth of the children, driver's license numbers, and the names, addresses, and telephone numbers of the parties' employers to enforce an administrative support order. The division of child support shall not release this information if the division of child support determines that there is reason to believe that release of the information may result in physical or emotional harm to the party or to the child, or a restraining order or protective order is in effect to protect one party from the other party.

(6) After the person required to pay support has been ordered or notified to make payments to the Washington state support registry under this section, that person shall be fully responsible for making all payments to the Washington state support registry and shall be subject to payroll deduction or other income-withholding action. The person required to pay support shall not be entitled to credit against a support obligation for any payments made to a person or agency other than to the Washington state support registry except as provided under RCW 74.20.101. A civil action may be brought by the person required to pay support to recover payments made to persons or agencies who have received and retained support moneys paid contrary to the provisions of this section.

(7) All petitioners and parties to all court actions under chapters 26.09, 26.10, 26.12, 26.18, 26.21A, 26.23, 26.26A, 26.26B, and 26.27 RCW shall complete to the best of their knowledge a verified and signed confidential information form or equivalent that provides the parties' current residence and mailing addresses, telephone numbers, dates of birth, social security numbers, driver's license numbers, and the names, addresses, and telephone numbers of the parties' employers. The clerk of the court shall not accept petitions, except in parentage actions initiated by the state, orders of child support, decrees of dissolution, or parentage orders for filing in such actions unless accompanied by the confidential information form or equivalent, or unless the confidential information form or equivalent is already on file with the court clerk. In lieu of or in addition to requiring the parties to complete a separate confidential information form, the clerk may collect the information in electronic form. The clerk of the court shall transmit the confidential information form or its data to the division of child support with a copy of the order of child support or parentage order, and may provide copies of the confidential information form or its data and any related findings, decrees, parenting plans, orders, or other documents to the state administrative agency that administers Title IV-A, IV-D, IV-E, or XIX of the federal social security act. In state initiated parentage actions, the parties adjudicated the parents of the child or children shall complete the confidential information form or equivalent or the state's attorney of record may complete that form to the best of the attorney's knowledge.

(8) The department has rule-making authority to enact rules consistent with 42 U.S.C. Sec. 652(f) and 42 U.S.C. Sec. 666(a)(19) as amended by section 7307 of the deficit reduction act of 2005. Additionally, the department has rule-

making authority to implement regulations required under 45 C.F.R. Parts 302, 303, 304, 305, and 308.

Sec. 15. RCW 26.23.060 and 2020 c 125 s 15 are each amended to read as follows:

(1) The division of child support may issue (~~(a notice of payroll deduction)~~) an income withholding order:

(a) As authorized by a support order that contains a notice clearly stating that child support may be collected by withholding from earnings, wages, or benefits without further notice to the obligated parent; or

(b) After service of a notice containing an income-withholding provision under this chapter or chapter 74.20A RCW.

(2) The division of child support shall serve (~~(a notice of payroll deduction)~~) an income withholding order upon a responsible parent's employer or upon the employment security department for the state in possession of or owing any benefits from the unemployment compensation fund to the responsible parent pursuant to Title 50 RCW or from the paid family and medical leave program under Title 50A RCW:

(a) In the manner prescribed for the service of a summons in a civil action;

(b) By certified mail, return receipt requested;

(c) By electronic means if there is an agreement between the secretary and the person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States to accept service by electronic means; or

(d) By regular mail to a responsible parent's employer unless the division of child support reasonably believes that service of process in the manner prescribed in (a) or (b) of this subsection is required for initiating an action to ensure employer compliance with the withholding requirement.

(3) Service of (~~(a notice of payroll deduction)~~) an income withholding order upon an employer or employment security department requires the employer or employment security department to immediately make a mandatory payroll deduction from the responsible parent's unpaid disposable earnings or benefits paid by the employment security department. The employer or employment security department shall thereafter deduct each pay period the amount stated in the (~~(notice)~~) order divided by the number of pay periods per month. The payroll deduction each pay period shall not exceed fifty percent of the responsible parent's disposable earnings.

(4) (~~(A notice of payroll deduction)~~) An income withholding order for support shall have priority over any wage assignment, garnishment, attachment, or other legal process.

(5) The (~~(notice of payroll deduction)~~) income withholding order shall be in writing and include:

(a) The name and social security number of the responsible parent;

(b) The amount to be deducted from the responsible parent's disposable earnings each month, or alternate amounts and frequencies as may be necessary to facilitate processing of the payroll deduction;

(c) A statement that the total amount withheld shall not exceed fifty percent of the responsible parent's disposable earnings;

(d) The address to which the payments are to be mailed or delivered; and

(e) A notice to the responsible parent warning the responsible parent that, despite the payroll deduction, the responsible parent's privileges to obtain and maintain a license, as defined in RCW 74.20A.320, may not be renewed, or may be suspended if the parent is not in compliance with a support order as defined in RCW 74.20A.320.

(6) An informational copy of the (~~(notice of payroll deduction)~~) income withholding order shall be mailed to the last known address of the responsible parent by regular mail.

(7) An employer or employment security department that receives (~~a notice of payroll deduction~~) an income withholding order shall make immediate deductions from the responsible parent's unpaid disposable earnings and remit proper amounts to the Washington state support registry within seven working days of the date the earnings are payable to the responsible parent.

(8) An employer, or the employment security department, upon whom (~~a notice of payroll deduction~~) an income withholding order is served, shall make an answer to the division of child support within twenty days after the date of service. The answer shall confirm compliance and institution of the payroll deduction or explain the circumstances if no payroll deduction is in effect. The answer shall also state whether the responsible parent is employed by or receives earnings from the employer or receives benefit payments from the employment security department, whether the employer or employment security department anticipates paying earnings or benefits and the amount of earnings or benefit payments. If the responsible parent is no longer employed, or receiving earnings from the employer, the answer shall state the present employer's name and address, if known. If the responsible parent is no longer receiving benefit payments from the employment security department, the answer shall state the present employer's name and address, if known.

The returned answer or a payment remitted to the division of child support by the employer constitutes proof of service of the (~~(notice of payroll deduction)~~) income withholding order in the case where the (~~(notice)~~) order was served by regular mail.

(9) The employer may deduct a processing fee from the remainder of the responsible parent's earnings after withholding under the (~~(notice of payroll deduction)~~) income withholding order, even if the remainder is exempt under RCW 26.18.090. The processing fee may not exceed: (a) Ten dollars for the first disbursement made to the Washington state support registry; and (b) one dollar for each subsequent disbursement to the registry.

(10) The (~~(notice of payroll deduction)~~) income withholding order shall remain in effect until released by the division of child support, the court enters an order terminating the (~~(notice)~~) income withholding order and approving an alternate arrangement under RCW 26.23.050, or until the employer no longer employs the responsible parent and is no longer in possession of or owing any earnings to the responsible parent. The employer shall promptly notify the office of support enforcement when the employer no longer employs the parent subject to the (~~(notice)~~) income withholding order. For the employment security department, the (~~(notice of payroll deduction)~~) income withholding order shall remain in effect until released by the division of child support or until the court enters an order terminating the (~~(notice)~~) income withholding order.

(11) The division of child support (~~((may))~~ must use (~~((uniform interstate))~~ income withholding forms adopted and required by the United States department of health and human services to take withholding actions under this section whether the responsible parent is receiving earnings or unemployment compensation in this state or in another state.

Sec. 16. RCW 26.23.090 and 1997 c 296 s 13 and 1997 c 58 s 894 are each reenacted and amended to read as follows:

(1) The employer shall be liable to the Washington state support registry, or to the agency or firm providing child support enforcement for another state, under Title IV-D of the federal social security act and issuing a notice, garnishment, or wage assignment attaching wages or earnings in satisfaction of a support obligation, for the amount of support moneys which should have been withheld from the employee's earnings, if the employer:

(a) Fails or refuses, after being served with (~~((a notice of payroll deduction, or substantially similar action issued by the agency or firm providing child support enforcement for another state,))~~ an income withholding order under Title IV-D of the federal social security act, to deduct and promptly remit from unpaid earnings the amounts of money required in the (~~((notice))~~ order;

(b) Fails or refuses to submit an answer to the (~~((notice of payroll deduction, or substantially similar action issued by the agency or firm providing child support enforcement for another state,))~~ income withholding order under Title IV-D of the federal social security act, after being served; or

(c) Is unwilling to comply with the other requirements of RCW 26.23.060.

(2) Liability may be established in superior court or may be established pursuant to RCW 74.20A.350. Awards in superior court and in actions pursuant to RCW 74.20A.350 shall include costs, interest under RCW 19.52.020 and 4.56.110, and reasonable attorneys' fees and staff costs as a part of the award. Debts established pursuant to this section may be collected by the division of child support using any of the remedies available under chapter 26.09, 26.18, 26.21, 26.23, 74.20, or 74.20A RCW for the collection of child support.

Sec. 17. RCW 74.20A.080 and 2002 c 199 s 7 are each amended to read as follows:

(1) The secretary may issue to any person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States, an order to withhold and deliver property of any kind, including but not restricted to earnings which are or might become due, owing, or belonging to the debtor, when the secretary has reason to believe that there is in the possession of such person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States property which is or might become due, owing, or belonging to said debtor. Such order to withhold and deliver may be issued:

(a) At any time, if a responsible parent's support order:

(i) Contains notice that withholding action may be taken against earnings, wages, or assets without further notice to the parent; or

(ii) Includes a statement that other income-withholding action under this chapter may be taken without further notice to the responsible parent;

(b) Twenty-one days after service of a notice of support debt under RCW 74.20A.040;

(c) Twenty-one days after service of a notice and finding of parental responsibility under RCW 74.20A.056;

(d) Twenty-one days after service of a notice of support owed under RCW 26.23.110;

(e) Twenty-one days after service of a notice and finding of financial responsibility under RCW 74.20A.055; or

(f) When appropriate under RCW 74.20A.270.

(2) The order to withhold and deliver shall:

(a) State the amount to be withheld on a periodic basis if the order to withhold and deliver is being served to secure payment of monthly current support;

(b) State the amount of the support debt accrued;

(c) State in summary the terms of RCW 74.20A.090 and 74.20A.100;

(d) Be served:

(i) In the manner prescribed for the service of a summons in a civil action;

(ii) By certified mail, return receipt requested;

(iii) By electronic means if there is an agreement between the secretary and the person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States to accept service by electronic means;

(iv) By regular mail to a responsible parent's employer unless the division of child support reasonably believes that service of process in the manner prescribed in (d)(i) or (ii) of this subsection is required for initiating an action to ensure employer compliance with the withholding requirement; or

(v) By regular mail to an address if designated by the financial institution as a central levy or garnishment address, and if the notice is clearly identified as a levy or garnishment order. Before the division of child support may initiate an action for noncompliance with a withholding action against a financial institution, the division of child support must serve the order to withhold and deliver on the financial institution in the manner described in (d)(i) or (ii) of this subsection.

(3) The division of child support ~~((may))~~ must use ~~((uniform interstate))~~ income withholding forms adopted and required by the United States department of health and human services to take withholding actions under this section ~~((when the responsible parent is owed money or property that is located in this state or in another state))~~.

(4) Any person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States upon whom service has been made is hereby required to:

(a) Answer said order to withhold and deliver within twenty days, exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein; and

(b) Provide further and additional answers when requested by the secretary.

(5) The returned answer or a payment remitted to the division of child support by the employer constitutes proof of service of the order to withhold and deliver in the case where the order was served by regular mail.

(6) Any such person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States in possession of any property which may be subject to the claim of the department shall:

(a)(i) Immediately withhold such property upon receipt of the order to withhold and deliver; and

(ii) Within seven working days deliver the property to the secretary;

(iii) Continue to withhold earnings payable to the debtor at each succeeding disbursement interval as provided for in RCW 74.20A.090, and deliver amounts withheld from earnings to the secretary within seven working days of the date earnings are payable to the debtor;

(iv) Deliver amounts withheld from periodic payments to the secretary within seven working days of the date the payments are payable to the debtor;

(v) Inform the secretary of the date the amounts were withheld as requested under this section; or

(b) Furnish to the secretary a good and sufficient bond, satisfactory to the secretary, conditioned upon final determination of liability.

(7) An order to withhold and deliver served under this section shall not expire until:

(a) Released in writing by the division of child support;

(b) Terminated by court order;

(c) A person or entity, other than an employer as defined in Title 50 RCW, who has received the order to withhold and deliver does not possess property of or owe money to the debtor; or

(d) An employer who has received the order to withhold and deliver no longer employs, contracts, or owes money to the debtor under a contract of employment, express or implied.

(8) Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, or association, political subdivision, or department of the state, or agency, subdivision, or instrumentality of the United States subject to withdrawal by the debtor, such money shall be delivered by remittance payable to the order of the secretary.

(9) Delivery to the secretary of the money or other property held or claimed shall satisfy the requirement and serve as full acquittance of the order to withhold and deliver.

(10) A person, firm, corporation, or association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States that complies with the order to withhold and deliver under this chapter is not civilly liable to the debtor for complying with the order to withhold and deliver under this chapter.

(11) The secretary may hold the money or property delivered under this section in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability.

(12) Exemptions contained in RCW 74.20A.090 apply to orders to withhold and deliver issued under this section.

(13) The secretary shall also, on or before the date of service of the order to withhold and deliver, mail or cause to be mailed a copy of the order to withhold and deliver to the debtor at the debtor's last known post office address, or, in the

alternative, a copy of the order to withhold and deliver shall be served on the debtor in the same manner as a summons in a civil action on or before the date of service of the order or within two days thereafter. The copy of the order shall be mailed or served together with a concise explanation of the right to petition for judicial review. This requirement is not jurisdictional, but, if the copy is not mailed or served as in this section provided, or if any irregularity appears with respect to the mailing or service, the superior court, in its discretion on motion of the debtor promptly made and supported by affidavit showing that the debtor has suffered substantial injury due to the failure to mail the copy, may set aside the order to withhold and deliver and award to the debtor an amount equal to the damages resulting from the secretary's failure to serve on or mail to the debtor the copy.

(14) An order to withhold and deliver issued in accordance with this section has priority over any other wage assignment, garnishment, attachment, or other legal process.

(15) The division of child support shall notify any person, firm, corporation, association, or political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States required to withhold and deliver the earnings of a debtor under this action that they may deduct a processing fee from the remainder of the debtor's earnings, even if the remainder would otherwise be exempt under RCW 74.20A.090. The processing fee shall not exceed ten dollars for the first disbursement to the department and one dollar for each subsequent disbursement under the order to withhold and deliver.

Sec. 18. RCW 74.20A.240 and 1997 c 296 s 16 are each amended to read as follows:

(1) Any person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States employing a person owing a support debt or obligation, shall honor, according to its terms, a duly executed assignment of earnings presented by the secretary as a plan to satisfy or retire a support debt or obligation. This requirement to honor the assignment of earnings and the assignment of earnings itself shall be applicable whether said earnings are to be paid presently or in the future and shall continue in force and effect until released in writing by the secretary. Payment of moneys pursuant to an assignment of earnings presented by the secretary shall serve as full acquittance under any contract of employment. A person, firm, corporation, association, political subdivision, department of the state, or agency, subdivision, or instrumentality of the United States that complies with the assignment of earnings under this chapter is not civilly liable to the debtor for complying with the assignment of earnings under this chapter. The secretary shall be released from liability for improper receipt of moneys under an assignment of earnings upon return of any moneys so received.

(2) An assignment of earnings presented by the secretary in accordance with this section must include income withholding forms adopted and required by the United States department of health and human services.

(3) An assignment of earnings presented by the secretary in accordance with this section has priority over any other wage assignment, garnishment, attachment, or other legal process except for another wage assignment, garnishment, attachment, or other legal process for support moneys.

(4) The employer may deduct a processing fee from the remainder of the debtor's earnings, even if the remainder would be exempt under RCW 74.20A.090. The processing fee shall not exceed fifteen dollars from the first disbursement to the department and one dollar for each subsequent disbursement under the assignment of earnings.

Sec. 19. RCW 74.20A.350 and 2018 c 150 s 202 are each amended to read as follows:

(1) The division of child support may issue a notice of noncompliance to any person, firm, entity, or agency of state or federal government that the division believes is not complying with:

(a) (~~A notice of payroll deduction~~) An income withholding order issued under chapter 26.23 RCW;

(b) A lien, order to withhold and deliver, or assignment of earnings issued under this chapter;

(c) Any other wage assignment, garnishment, attachment, or withholding instrument properly served by the agency or firm providing child support enforcement services for another state, under Title IV-D of the federal social security act;

(d) A subpoena issued by the division of child support, or the agency or firm providing child support enforcement for another state, under Title IV-D of the federal social security act;

(e) An information request issued by the division of child support, or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, to an employer or entity required to respond to such requests under RCW 74.20A.360;

(f) The duty to report newly hired employees imposed by RCW 26.23.040; or

(g) The duty of a business, employer, or payroll processor that has received an income withholding order from the department of social and health services requiring payment to the Washington state support registry to remit withheld funds by electronic means imposed by RCW 26.23.065.

(2) Liability for noncompliance with a wage withholding, garnishment, order to withhold and deliver, or any other lien or attachment issued to secure payment of child support is governed by RCW 26.23.090 and 74.20A.100, except that liability for noncompliance with remittance time frames is governed by subsection (4) of this section.

(3) Fines for noncompliance by a business, employer, or payroll processor with the duty to remit withheld funds by electronic means imposed by RCW 26.23.065 are governed by subsection (4)(c) of this section.

(4) The division of child support may impose fines of up to one hundred dollars per occurrence for:

(a) Noncompliance with a subpoena or an information request issued by the division of child support, or the agency or firm providing child support enforcement services for another state under Title IV-D of the federal social security act;

(b) Noncompliance with the required time frames for remitting withheld support moneys to the Washington state support registry, or the agency or firm providing child support enforcement services for another state, except that no liability shall be established for failure to make timely remittance unless the

division of child support has provided the person, firm, entity, or agency of state or federal government with written warning:

- (i) Explaining the duty to remit withheld payments promptly;
- (ii) Explaining the potential for fines for delayed submission; and
- (iii) Providing a contact person within the division of child support with whom the person, firm, entity, or agency of state or federal government may seek assistance with child support withholding issues;

(c) A business, employer, or payroll processor's noncompliance with the duty to remit withheld funds by electronic means imposed by RCW 26.23.065. The division of child support may not impose fines for failure to comply with this requirement unless it has provided the person, firm, entity, or agency of state or federal government with written warning:

- (i) Explaining the duty to remit withheld payments by electronic means;
- (ii) Explaining the potential for fines for failure to remit withheld payments by electronic means when required under RCW 26.23.065; and
- (iii) Providing a contact person within the division of child support with whom the person, firm, entity, or agency of state or federal government may seek assistance with child support withholding issues.

(5) The division of child support may assess fines according to RCW 26.23.040 for failure to comply with employer reporting requirements.

(6) The division of child support may suspend licenses for failure to comply with a subpoena issued under RCW 74.20.225.

(7) The division of child support may serve a notice of noncompliance by personal service or by any method of mailing requiring a return receipt.

(8) The liability asserted by the division of child support in the notice of noncompliance becomes final and collectible on the twenty-first day after the date of service, unless within that time the person, firm, entity, or agency of state or federal government:

(a) Initiates an action in superior court to contest the notice of noncompliance;

(b) Requests a hearing by delivering a hearing request to the division of child support in accordance with rules adopted by the secretary under this section; or

(c) Contacts the division of child support and negotiates an alternate resolution to the asserted noncompliance or demonstrates that the person, firm, entity, or agency of state or federal government has complied with the child support processes.

(9) The notice of noncompliance shall contain:

(a) A full and fair disclosure of the rights and obligations created by this section; and

(b) Identification of the:

(i) Child support process with respect to which the division of child support is alleging noncompliance; and

(ii) State child support enforcement agency issuing the original child support process.

(10) In an administrative hearing convened under subsection (8)(b) of this section, the presiding officer shall determine whether or not, and to what extent, liability for noncompliance exists under this section, and shall enter an order containing these findings. If liability does exist, the presiding officer shall

include language in the order advising the parties to the proceeding that the liability may be collected by any means available to the division of child support under subsection (13) of this section without further notice to the liable party.

(11) Hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW.

(12) After the twenty days following service of the notice, the person, firm, entity, or agency of state or federal government may petition for a late hearing. A petition for a late hearing does not stay any collection action to recover the debt. A late hearing is available upon a showing of any of the grounds stated in civil rule 60 for the vacation of orders.

(13) The division of child support may collect any obligation established under this section using any of the remedies available under chapter 26.09, 26.18, 26.21A, 26.23, 74.20, or 74.20A RCW for the collection of child support.

(14) The division of child support may enter agreements for the repayment of obligations under this section. Agreements may:

(a) Suspend the obligation imposed by this section conditioned on future compliance with child support processes. Such suspension shall end automatically upon any failure to comply with a child support process. Amounts suspended become fully collectible without further notice automatically upon failure to comply with a child support process;

(b) Resolve amounts due under this section and provide for repayment.

(15) The secretary may adopt rules to implement this section.

NEW SECTION. Sec. 20. Section 13 of this act expires February 1, 2021.

NEW SECTION. Sec. 21. Section 14 of this act takes effect February 1, 2021.

Passed by the House February 3, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 36

[Engrossed House Bill 1199]

DEPARTMENT OF NATURAL RESOURCES LEASES—COMPENSATION FOR TERMINATION

AN ACT Relating to providing compensation to department of natural resources lessees whose leases are terminated for reasons other than default; and amending RCW 79.13.420.

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

Sec. 1. RCW 79.13.420 and 2017 c 56 s 1 are each amended to read as follows:

(1) For the purposes of this section, "nondefault or early termination provision" means a provision that authorizes the department to terminate a lease in the event the department includes the leased land in a plan for higher and better use, land exchange, or sale.

(2) Any nondefault or early termination provision included in a state land lease for agricultural or grazing purposes must:

(a) Require advance written notice of at least one hundred eighty days by the department to the lessee prior to termination of the lease; and

(b) Require the department to provide to the lessee, along with the notice under (a) of this subsection, written documentation demonstrating that the department has included the leased land in a plan for higher and better use, land exchange, or sale.

(3) This section does not require the department to include a nondefault or early termination provision in any state land lease for agricultural or grazing purposes.

(4) This section does not prohibit the department from allowing the lessee to surrender the leasehold subject to terms provided in the lease.

(5) This section does not prohibit the department from executing other lease provisions designed to protect the interests of the lessee in the event that the lease is terminated under a nondefault or early termination provision.

(6) In the event that the department exercises a nondefault or early termination provision in a state land lease for agricultural or grazing purposes, the department shall compensate the lessee according to the following schedule:

(a) For grazing leases, the department shall pay to the lessee the annual rent for the land subject to the lease, multiplied by a factor of six, except that the department need not compensate the lessee for any years that are specifically designated in the lease as nongrazing years.

(b) For agricultural leases, the department shall pay to the lessee the expected net return the lessee would have realized from crops raised on the leased land, which shall be calculated according to the following formula: The annual net revenue per acre for the class of crop produced by the lessee, less the rental rate per acre for the land leased by the lessee; multiplied by the number of acres leased by the lessee. For purposes of this subsection, the annual net revenue per acre for a class of crop must be calculated according to the most recent rolling average annual net rental return per acre for that class of crop as established by the county assessor of the county in which the leased land is located or, if the county assessor of the county in which the land is located has not established an annual net rental return per acre, as established by the county assessor of the nearest county in which the county assessor has established such an annual net rental return per acre. The annual net rental return per acre, as established by the county assessor, must be adjusted to reflect the total annual net revenue per acre.

(c) For both grazing leases and agricultural leases, the department shall make payments to the lessee on an annual basis for the remaining term of the terminated lease, unless the department and the lessee agree to an alternate schedule of payments. In the event that payments are made on any schedule other than on an annual basis, any advance payments must be subjected to an appropriate discount rate in order to reflect the net present value of the compensation owed by the department.

(d) For both grazing leases and agricultural leases, in the event that the lessee has placed any improvements, as authorized under RCW 79.13.050, on the land that is subject to the lease, the department is responsible for compensating the lessee for the fair market value of the improvements. In the event that an agreement cannot be reached between the state and the lessee on the fair market value of the improvements, the valuation must be determined as prescribed under RCW 79.13.160.

(7) In the event that the department's exercise of a nondefault or early termination provision in a state land lease for agricultural or grazing purposes results in the removal of fencing from the land subject to the lease, the department is responsible for ensuring the replacement of any removed fencing.

(8) In the event that the department's exercise of a nondefault or early termination provision in a state land lease for agricultural or grazing purposes causes the lessee to incur a financial penalty as a result of an early withdrawal from a natural resources conservation service program, the department is responsible for reimbursing the lessee for payment of the financial penalty.

(9) The compensation and reimbursement available to a lessee under subsections (6) and (8) of this section, respectively, is the sole financial remedy available to the lessee based on the department's exercise of a nondefault or early termination provision in an agriculture or grazing lease. Appeal rights under RCW 79.02.030 are unaffected by the relief provided in this section.

Passed by the House February 12, 2021.

Passed by the Senate March 30, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 37

[Substitute House Bill 1206]

TEMPORARY WORKERS—SAFETY

AN ACT Relating to protecting temporary workers; 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) Before the assignment of an employee to a worksite employer, a staffing agency must:

(a) Inquire about the worksite employer's safety and health practices and hazards at the actual workplace where the employee will be working to assess the safety conditions, workers tasks, and the worksite employer's safety program; these activities are required at the start of any contract to place workers and may include visiting the actual worksite. If, during the inquiry or anytime during the period of the contract, the staffing agency becomes aware of existing job hazards that are not mitigated by the worksite employer, the staffing agency must make the host employer aware, urge the host employer to correct it, and document these efforts, otherwise the staffing agency must remove the temporary workers from the worksite;

(b) Provide training to the employee for general awareness safety training for recognized industry hazards the employee may encounter at the worksite. Industry hazard training must be completed, in the preferred language of the employee, and must be provided at no expense to the employee. The training date and training content must be maintained by the staffing agency and provided to the employee upon request;

(c) Transmit a general description of the training program including topics covered to the worksite employer, whether electronically or on paper, at the start of the contract with the worksite employer;

(d) Provide the department's hotline number for the employee to call to report safety hazards and concerns as part of the employment materials provided to the employee; and

(e) Inform the employee who the employee should report safety concerns to at the workplace.

(2) This section does not diminish any existing worksite employer or staffing agency responsibility as an employer to provide a place of employment free from recognized hazards or to otherwise comply with this chapter and other employment laws. Both entities are responsible for compliance with this chapter and the rules enacted pursuant to this chapter.

(3) Before the employee engages in work for the worksite employer, the worksite employer must:

(a) Document and inform the staffing agency about anticipated job hazards likely encountered by the staffing agency employee;

(b) Review the safety and health awareness training provided by the staffing agency to determine if it addresses recognized hazards for the worksite employer's industry;

(c) Provide specific training tailored to the particular hazards at their workplaces; and

(d) Document and maintain records of site-specific training and provide confirmation that the training occurred to the staffing agency within three business days of providing the training.

(4) If the worksite employer changes the job tasks or work location and new hazards may be encountered, the worksite employer must:

(a) Inform both the staffing agency and the employee; and

(b) Inform both the staffing agency and the employee of job hazards not previously covered before the employee undertakes the new tasks and update personal protective equipment and training for the new job tasks, if necessary.

(5) A staffing agency or employee may refuse a new job task at the worksite when the task has not been reviewed or if the employee has not had appropriate training to do the new task.

(6) A worksite employer that supervises an employee of a staffing agency must provide worksite specific training to the employee and must allow a staffing agency to visit any worksite where the staffing agency's employees are or will be working to observe and confirm the worksite employer's training and information related to the worksite's job tasks, safety and health practices, and hazards.

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

(a) A "staffing agency" is an employer as defined in this chapter and North American industry classification system 561320 and means an organization that recruits and hires its own employees and temporarily assigns those employees to perform work or services for another organization, under such other organization's supervision, to: (i) Support or supplement the other organization's workforce; (ii) provide assistance in special work situations including, but not

limited to, employee absences, skill shortages, or seasonal workloads; or (iii) Perform special assignments or projects.

(b) "Worksite employer" is an employer as defined in this chapter and means an individual, company, corporation, or partnership with which a staffing agency contracts or otherwise agrees to furnish persons for temporary employment in the industries described in sectors 23 and 31 through 33 of the North American industry classification system.

(8) A staffing agency or worksite employer may not retaliate against a staffing agency employee who reports safety concerns.

(9) The department may enact rules to implement this section.

Passed by the House February 23, 2021.

Passed by the Senate March 29, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 38

[Engrossed Substitute House Bill 1214]

PUBLIC SCHOOL SAFETY AND SECURITY SERVICES

AN ACT Relating to the provision of K-12 public school safety and security services by classified staff or contractors; amending RCW 28A.320.124 and 18.170.105; adding new sections to chapter 28A.320 RCW; adding a new section to chapter 28A.400 RCW; adding a new section to chapter 28A.310 RCW; adding a new section to chapter 28A.710 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. (1) The legislature acknowledges the disproportionate impact that interactions with police have on youth of color and on Black youth in particular. Not only are Black youth more likely than their white peers to have contact with police at a young age despite similar or lower rates of illegal behavior, but early police contact for Black youth is predictive of future arrests in a way that is not true for white youth.

(2) The legislature finds that schools should be a place in which all youth feel safe and it is imperative that school resource officers, school security officers, and other school safety and security staff do not contribute to an unsafe environment for Black youth and youth of color.

(3) The legislature recognizes that chapter 333, Laws of 2019 made significant improvements to the quality and transparency of school districts' school resource officer programs by implementing training and intergovernmental agreement requirements. However, the legislature intends to expand these requirements to other school safety and security staff. The legislature also expects to require on-the-job training. In addition, the legislature finds that in order to understand the full scope and impact of safety and security staff on school property, additional information must be collected and made publicly available.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.320 RCW to read as follows:

(1) School districts must annually collect the following information on safety and security staff:

(a) Total number of safety and security staff working in the district and in each school building, and number of days per week that each staff works;

(b) The name of any law enforcement agency or private organization with which the district has an agreement for safety and security services;

(c) A description of each incident where safety and security staff were involved that resulted in student discipline, use of force against a student, or a student arrest. For each student involved in the incident, the description must include:

(i) The student's race, ethnicity, and other demographics; and

(ii) Whether the student has an individualized education program or plan developed under section 504 of the rehabilitation act of 1973;

(d) The number of complaints related to job duties and student interactions filed against safety and security staff; and

(e) Other school safety and security information required by the office of the superintendent of public instruction.

(2)(a) School districts must annually submit any agreements adopted as required by section 6 of this act and the information collected as required by this section at the time and in the manner required by the office of the superintendent of public instruction.

(b) The office of the superintendent of public instruction must make the submitted agreements and information publicly available. To the extent possible, information collected under subsection (1)(c) of this section must be disaggregated as provided in RCW 28A.300.042.

(3) For the purposes of this section, "safety and security staff" has the same meaning as in RCW 28A.320.124.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.400 RCW to read as follows:

(1) Prior to assigning safety and security staff to work on school property when students are expected to be present, school districts and their contractors must either:

(a) Confirm that the safety and security staff have training series documentation provided under section 4 of this act; or

(b) Require the safety and security staff to complete the training series described in subsection (2) of this section.

(2)(a) The training series, two components for school resource officers and three components for other safety and security staff, must meet the requirements in this subsection.

(b) All safety and security staff must complete classroom training on the subjects listed in section 4(2) of this act, within the first six months of working on school property when students are expected to be present.

(c) All safety and security staff must complete two days of on-the-job training with experienced safety and security staff, at the school of the experienced staff, within the first year of working on school property when students are expected to be present.

(d) Safety and security staff who are not school resource officers must complete at least six check-in trainings with experienced staff within the first year of working on school property when students are expected to be present.

(3) School safety and security staff who complete the training series described in subsection (2) of this section, and staff with significant prior

training and experience, may request training series documentation from an educational service district under section 4 of this act.

(4) Nothing in this section effects the categorization of safety and security staff as classified staff. Safety and security staff are not considered certificated instructional staff as that term and its meaning are used in this title.

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

(a) "Safety and security staff" or "staff" has the same meaning as in RCW 28A.320.124.

(b) "School resource officer" has the same meaning as in RCW 28A.320.124.

NEW SECTION. Sec. 4. A new section is added to chapter 28A.310 RCW to read as follows:

(1)(a) A safety and security staff training program is established. The program must be jointly developed by the educational service districts, but may be administered primarily by one or more educational service districts. The program must meet the requirements of this section.

(b) When developing the safety and security staff training program, the educational service districts should engage with the state school safety center established in RCW 28A.300.630 and the school safety and student well-being advisory committee established in RCW 28A.300.635.

(2) The educational service districts must identify or develop classroom training on the following subjects:

(a) Constitutional and civil rights of children in schools, including state law governing search and interrogation of youth in schools;

(b) Child and adolescent development;

(c) Trauma-informed approaches to working with youth;

(d) Recognizing and responding to youth mental health issues;

(e) Educational rights of students with disabilities, the relationship of disability to behavior, and best practices for interacting with students with disabilities;

(f) Bias free policing and cultural competency, including best practices for interacting with students from particular backgrounds, including English learner, LGBTQ, immigrant, female, and nonbinary students;

(g) Local and national disparities in the use of force and arrests of children;

(h) Collateral consequences of arrest, referral for prosecution, and court involvement;

(i) Resources available in the community that serve as alternatives to arrest and prosecution and pathways for youth to access services without court or criminal justice involvement;

(j) De-escalation techniques when working with youth or groups of youth;

(k) State law regarding restraint and isolation in schools, including RCW 28A.600.485;

(l) The federal family educational rights and privacy act (20 U.S.C. Sec. 1232g) requirements including limits on access to and dissemination of student records for noneducational purposes; and

(m) Restorative justice principles and practices.

(3) The educational service districts must provide, or arrange for the delivery of, classroom training on the subjects listed in subsection (2) of this

section. At a minimum, classroom trainings on each subject must be provided annually, remotely, synchronously or asynchronously, and by at least one educational service district. Classroom training may be provided on a fee-for-service basis and should be self-supporting.

(4) The educational service districts must provide to safety and security staff, upon request, documentation that the safety and security staff training series described in section 3(2) of this act has been completed. Before providing this training series documentation, completion of each component of the training series must be verified or, in the case of safety and security staff with significant prior training and experience, waived.

(5) The educational service districts must develop and publish guidelines for on-the-job training and check-in training that include recommendations for identifying and recruiting experienced safety and security staff to provide the trainings, suggested activities during on-the-job trainings, and best practices for meaningful check-in trainings. The guidelines for check-in training must also include recommended frequency, possible topics of discussion, and options for connecting virtually.

(6) For purposes of this section, the term "safety and security staff" has the same meaning as in RCW 28A.320.124.

Sec. 5. RCW 28A.320.124 and 2019 c 333 s 12 are each amended to read as follows:

(1) ~~(If a school district chooses to have a school resource officer program, the school district must confirm that every school resource officer has received training on the following topics:~~

~~(a) Constitutional and civil rights of children in schools, including state law governing search and interrogation of youth in schools;~~

~~(b) Child and adolescent development;~~

~~(c) Trauma-informed approaches to working with youth;~~

~~(d) Recognizing and responding to youth mental health issues;~~

~~(e) Educational rights of students with disabilities, the relationship of disability to behavior, and best practices for interacting with students with disabilities;~~

~~(f) Collateral consequences of arrest, referral for prosecution, and court involvement;~~

~~(g) Resources available in the community that serve as alternatives to arrest and prosecution and pathways for youth to access services without court or criminal justice involvement;~~

~~(h) Local and national disparities in the use of force and arrests of children;~~

~~(i) De-escalation techniques when working with youth or groups of youth;~~

~~(j) State law regarding restraint and isolation in schools, including RCW 28A.600.485;~~

~~(k) Bias free policing and cultural competency, including best practices for interacting with students from particular backgrounds, including English learners, LGBTQ, and immigrants; and~~

~~(l) The federal family educational rights and privacy act (20 U.S.C. Sec. 1232g) requirements including limits on access to and dissemination of student records for noneducational purposes.~~

~~(2) School districts that have a school resource officer program must annually review and adopt an agreement with the local law enforcement agency~~

using a process that involves parents, students, and community members. At a minimum, the agreement must incorporate the following elements)) By the beginning of the 2021-22 school year, school districts that have safety and security staff working on school property when students are expected to be present must adopt, and periodically update, a policy and procedure that:

(a) ((A)) Includes a clear statement regarding ((school resource officer)) safety and security staff duties and responsibilities related to student behavior and discipline that:

(i) Prohibits a school resource officer from becoming involved in formal school discipline situations that are the responsibility of school administrators; and

(ii) ((Acknowledges the role of a school resource officer as a teacher, informal counselor, and law enforcement officer; and

((iii))) Recognizes that ((a)) trained ((school resource officer)) safety and security staff know((s)) when to informally interact with students to reinforce school rules and when to enforce the law;

(b) ((School district policy and procedure for teachers that clarify)) Clarifies the circumstances under which teachers and school administrators may ask ((an officer)) safety and security staff to intervene with a student;

(c) ((Annual collection and reporting of data regarding calls for law enforcement service and the outcome of each call, including student arrest and referral for prosecution, disaggregated by school, offense type, race, gender, age, and students who have an individualized education program or plan developed under section 504 of the federal rehabilitation act of 1973;

((d) A)) Explains how safety and security staff will be engaged in creating a positive school climate and positive relationships with students; and

(d) Describes the process for families to file complaints with the school and, when applicable, the local law enforcement agency or the company that provides the safety and security staff on contract related to ((school resource officers)) safety and security staff and a process for investigating and responding to complaints((; and

(e) Confirmation that the school resource officers have received the training required under subsection (1) of this section)).

((3) School districts that choose to have a school resource officer program must comply with the requirements in subsection (2) of this section by the beginning of the 2020-21 school year.

(4) For the purposes of this section, "school") (2) At the beginning of each school year, school districts that have safety and security staff working on school property must present to and discuss with students, and distribute to students' families, information about the role and responsibilities of safety and security staff.

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

(a) "Safety and security staff" means a school resource officer, a school security officer, a campus security officer, and any other commissioned or noncommissioned employee or contractor, whose primary job duty is to provide safety or security services for a public school, as defined in RCW 28A.150.010.

(b) "School resource officer" means a commissioned law enforcement officer in the state of Washington with sworn authority to make arrests, deployed

in community-oriented policing, and assigned by the employing police department or sheriff's office to work in schools to build positive relationships with students and address crime and disorder problems, gangs, and drug activities affecting or occurring in or around K-12 schools. School resource officers should focus on keeping students out of the criminal justice system when possible and should not be used to attempt to impose criminal sanctions in matters that are more appropriately handled within the educational system.

NEW SECTION. Sec. 6. A new section is added to chapter 28A.320 RCW to read as follows:

(1)(a) If a law enforcement agency or security guard company supplies safety and security staff to work on school property when students are expected to be present, the school district must annually review and adopt an agreement with the law enforcement agency or security guard company that meets the requirements of this section. The agreement must:

- (i) Meet the requirements described in RCW 28A.320.124(1);
- (ii) Include a jointly determined hiring and placement process and a performance evaluation process; and
- (iii) Either confirm that the safety and security staff have training series documentation provided under section 4(4) of this act or describe the plan for safety and security staff to complete the training series described in section 3(2) of this act.

(b) The agreement review and adoption process must involve parents, students, and community members.

(2) For purposes of this section, "safety and security staff" has the same meaning as in RCW 28A.320.124.

NEW SECTION. Sec. 7. A new section is added to chapter 28A.710 RCW to read as follows:

Sections 2, 3, and 6 of this act and RCW 28A.320.124 govern school operation and management under RCW 28A.710.040 and apply to charter schools established under this chapter.

Sec. 8. RCW 18.170.105 and 2007 c 306 s 2 are each amended to read as follows:

(1) To promote the safety of persons and the security of property, the director shall meet with interested parties to develop lists of suggested preassignment, postassignment, and postassignment refresher training by rule.

(2) All security guards licensed on or after July 1, 2005, must complete at least eight hours of preassignment training, comprised of at least four hours of classroom instruction and an additional four hours of classroom instruction or individual instruction, or both. The preassignment training may be waived for any individual who was most recently employed full time as a sworn peace officer not more than five years prior to applying to become licensed as a private security guard and who passes the examination typically administered to applicants at the conclusion of the preassignment training.

(3)(a) All security guards licensed on or after July 1, 2005, must complete at least eight hours of initial postassignment training that shall be administered to each security guard. The initial postassignment training must be in the topic areas established by the director and may be classroom instruction or individual instruction, or both. A company may waive the initial postassignment training

for security guards already licensed who transfer from another company, if the security guard presents appropriate training records signed by a department-certified trainer from the previous company, or a signed affidavit that the individual has already completed the required initial postassignment training provided by his or her previous company.

(b) Security guards who received their temporary security guard registration card on or before July 22, 2007, must receive their initial postassignment training before June 30, 2008. Security guards who received their temporary security guard registration card after July 22, 2007, must receive their initial postassignment training as specified in (c) and (d) of this subsection.

(c) Security guards licensed between January 1st and June 30th of any calendar year may receive eight hours of initial postassignment training any time between the day following the issuance of a temporary security guard registration card with their company and June 30th of the year following initial issuance of their license by the department.

(d) Security guards initially licensed between July 1st and December 31st of any calendar year may receive eight hours of initial postassignment training at any time between the day following the issuance of a temporary security guard registration card with their company and December 31st of the year following initial issuance of their license by the department.

(4) Following completion of the preassignment and postassignment training, at least four total hours of annual refresher training shall be administered to security guards each subsequent year. The subsequent year begins, for refresher training purposes, the day following the last date the security guard is required to receive the eight hours of initial postassignment training. No more than one hour per year of annual refresher training may focus directly on customer service-related skills or topics and the remaining three hours per year of annual refresher training must focus on emergency response concepts, skills, or topics including but not limited to knowledge of site post orders or life safety.

(5) Security guards who receive any of the school safety and security staff classroom training described in section 4(2) of this act may apply the number of completed classroom training hours to meet either the initial postassignment training requirement or the annual refresher training requirement.

(6) Companies must maintain records regarding the training hours completed by each employee. All such records are subject to inspection by the department. The training requirements and test results must be recorded and attested to by a department-certified trainer. Training records must contain a description of the topics covered, the name and signature of the trainer, and the name and signature of the security guard.

Passed by the House March 2, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 39

[House Bill 1237]

FAMILY RESOURCE CENTERS—DEFINITION

AN ACT Relating to defining family resource centers; amending RCW 43.330.010; reenacting and amending RCW 74.14C.010 and 43.216.010; and creating a new section.

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

NEW SECTION. Sec. 1. (1) This act is intended to provide a common definition for family resource centers across Washington state in an effort to establish a core set of principles for existing and newly forming family resource centers.

(2) The legislature finds that family resource centers are effective in supporting communities when adhering to the following principles:

- (a) Equality;
- (b) Mutual respect;
- (c) Families are resources to other families and the community;
- (d) Strengthening families' cultural, racial, and linguistic identities;
- (e) Embedding programs in the community;
- (f) Fairness;
- (g) Responsiveness;
- (h) Accountability;
- (i) Mobilization of formal and informal resources; and
- (j) Flexibility.

(3) The legislature further finds that families and parents are primarily responsible for supporting children's development and well-being at all ages and stages, and for preparing a child for success in school and life. However, many families may benefit from voluntary preventative or enriching support.

(4) The legislature finds that family resource centers play a critical role in:

- (a) Preventing child abuse and neglect;
- (b) Strengthening children and families;
- (c) Connecting family-impacting agencies and programs;
- (d) Creating opportunities for community-level coordination; and
- (e) Creating connections to resources and support systems.

Sec. 2. RCW 74.14C.010 and 2017 3rd sp.s. c 6 s 511 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) "Community support systems" means the support that may be organized through extended family members, friends, neighbors, religious organizations, community programs, cultural and ethnic organizations, or other support groups or organizations.

(2) "Department" means the department of children, youth, and families.

(3) "Family preservation services" means in-home or community-based services drawing on the strengths of the family and its individual members while addressing family needs to strengthen and keep the family together where possible and may include:

(a) Respite care of children to provide temporary relief for parents and other caregivers;

(b) Services designed to improve parenting skills with respect to such matters as child development, family budgeting, coping with stress, health, safety, and nutrition; and

(c) Services designed to promote the well-being of children and families, increase the strength and stability of families, increase parents' confidence and competence in their parenting abilities, promote a safe, stable, and supportive family environment for children, and otherwise enhance children's development.

Family preservation services shall have the characteristics delineated in RCW 74.14C.020 (2) and (3).

(4) "Family resource center" means a unified single point of entry where families, individuals, children, and youth in communities can obtain information, an assessment of needs, referral to, or direct delivery of family services in a manner that is welcoming and strength-based.

(a) A family resource center is designed to meet the needs, cultures, and interests of the communities that the family resource center serves.

(b) Family services may be delivered directly to a family at the family resource center by family resource center staff or by providers who contract with or have provider agreements with the family resource center. Any family resource center that provides family services shall comply with applicable state and federal laws and regulations regarding the delivery of such family services, unless required waivers or exemptions have been granted by the appropriate governing body.

(c) Each family resource center shall have one or more family advocates who screen and assess a family's needs and strengths. If requested by the family, the family advocate shall assist the family with setting its own goals and, together with the family, develop a written plan to pursue the family's goals in working towards a greater level of self-reliance or in attaining self-sufficiency.

(5) "Imminent" means a decision has been made by the department that, without intensive family preservation services, a petition requesting the removal of a child from the family home will be immediately filed under chapter 13.32A or 13.34 RCW, or that a voluntary placement agreement will be immediately initiated.

~~((5))~~ (6) "Intensive family preservation services" means community-based services that are delivered primarily in the home, that follow intensive service models with demonstrated effectiveness in reducing or avoiding the need for unnecessary imminent out-of-home placement, and that have all of the characteristics delineated in RCW 74.14C.020 (1) and (3).

~~((6))~~ (7) "Out-of-home placement" means a placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

~~((7))~~ (8) "Paraprofessional worker" means any individual who is trained and qualified to provide assistance and community support systems development to families and who acts under the supervision of a preservation services therapist. The paraprofessional worker is not intended to replace the role and responsibilities of the preservation services therapist.

~~((8))~~ (9) "Preservation services" means family preservation services and intensive family preservation services that consider the individual family's cultural values and needs.

~~((9))~~ (10) "Secretary" means the secretary of the department.

Sec. 3. RCW 43.330.010 and 2014 c 112 s 401 are each amended to read as follows:

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

(1) "Associate development organization" means a local economic development nonprofit corporation that is broadly representative of community interests.

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

(3) "Director" means the director of the department of commerce.

(4) "Family resource center" means a unified single point of entry where families, individuals, children, and youth in communities can obtain information, an assessment of needs, referral to, or direct delivery of family services in a manner that is welcoming and strength-based.

(a) A family resource center is designed to meet the needs, cultures, and interests of the communities that the family resource center serves.

(b) Family services may be delivered directly to a family at the family resource center by family resource center staff or by providers who contract with or have provider agreements with the family resource center. Any family resource center that provides family services shall comply with applicable state and federal laws and regulations regarding the delivery of such family services, unless required waivers or exemptions have been granted by the appropriate governing body.

(c) Each family resource center shall have one or more family advocates who screen and assess a family's needs and strengths. If requested by the family, the family advocate shall assist the family with setting its own goals and, together with the family, develop a written plan to pursue the family's goals in working towards a greater level of self-reliance or in attaining self-sufficiency.

(5) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business in this state under state or federal law.

~~((5))~~ (6) "Small business" has the same meaning as provided in RCW 39.26.010.

Sec. 4. RCW 43.216.010 and 2020 c 270 s 11 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) "Agency" means any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's own home and includes the following irrespective of whether there is compensation to the agency:

(a) "Child day care center" means an agency that regularly provides early childhood education and early learning services for a group of children for periods of less than ~~((twenty four))~~ 24 hours;

(b) "Early learning" includes but is not limited to programs and services for child care; state, federal, private, and nonprofit preschool; child care subsidies; child care resource and referral; parental education and support; and training and professional development for early learning professionals;

(c) "Family day care provider" means a child care provider who regularly provides early childhood education and early learning services for not more than ~~((twelve))~~ 12 children in the provider's home in the family living quarters;

(d) "Nongovernmental private-public partnership" means an entity registered as a nonprofit corporation in Washington state with a primary focus on early learning, school readiness, and parental support, and an ability to raise a minimum of ~~((five million dollars))~~ \$5,000,000 in contributions;

(e) "Service provider" means the entity that operates a community facility.

(2) "Agency" does not include the following:

(a) Persons related to the child in the following ways:

(i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(ii) Stepfather, stepmother, stepbrother, and stepsister;

(iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law; or

(iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this subsection, even after the marriage is terminated;

(b) Persons who are legal guardians of the child;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person providing care for periods of less than ~~((twenty-four))~~ 24 hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) Nursery schools that are engaged primarily in early childhood education with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(f) Schools, including boarding schools, that are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, and accept only school age children;

(g) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(h) Facilities providing child care for periods of less than ~~((twenty-four))~~ 24 hours when a parent or legal guardian of the child remains on the premises of the facility for the purpose of participating in:

(i) Activities other than employment; or

(ii) Employment of up to two hours per day when the facility is operated by a nonprofit entity that also operates a licensed child care program at the same facility in another location or at another facility;

(i) Any entity that provides recreational or educational programming for school age children only and the entity meets all of the following requirements:

(i) The entity utilizes a drop-in model for programming, where children are able to attend during any or all program hours without a formal reservation;

(ii) The entity does not assume responsibility in lieu of the parent, unless for coordinated transportation;

(iii) The entity is a local affiliate of a national nonprofit; and

(iv) The entity is in compliance with all safety and quality standards set by the associated national agency;

(j) A program operated by any unit of local, state, or federal government;

(k) A program located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(l) A program located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(m) A program that offers early learning and support services, such as parent education, and does not provide child care services on a regular basis.

(3) "Applicant" means a person who requests or seeks employment in an agency.

(4) "Certificate of parental improvement" means a certificate issued under RCW 74.13.720 to an individual who has a founded finding of physical abuse or negligent treatment or maltreatment, or a court finding that the individual's child was dependent as a result of a finding that the individual abused or neglected their child pursuant to RCW 13.34.030(6)(b).

(5) "Conviction information" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the applicant.

(6) "Department" means the department of children, youth, and families.

(7) "Early achievers" means a program that improves the quality of early learning programs and supports and rewards providers for their participation.

(8) "Early childhood education and assistance program contractor" means an organization that provides early childhood education and assistance program services under a signed contract with the department.

(9) "Early childhood education and assistance program provider" means an organization that provides site level, direct, and high quality early childhood education and assistance program services under the direction of an early childhood education and assistance program contractor.

(10) "Early start" means an integrated high quality continuum of early learning programs for children birth-to-five years of age. Components of early start include, but are not limited to, the following:

(a) Home visiting and parent education and support programs;

(b) The early achievers program described in RCW 43.216.085;

(c) Integrated full-day and part-day high quality early learning programs; and

(d) High quality preschool for children whose family income is at or below ~~((one hundred ten))~~ 110 percent of the federal poverty level.

(11) "Education data center" means the education data center established in RCW 43.41.400, commonly referred to as the education research and data center.

(12) "Employer" means a person or business that engages the services of one or more people, especially for wages or salary to work in an agency.

(13) "Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.216.325(1) or assessment of civil monetary penalties pursuant to RCW 43.216.325(3).

(14) "Extended day program" means an early childhood education and assistance program that offers early learning education for at least ~~((ten))~~ 10

hours per day, a minimum of (~~two thousand~~) 2,000 hours per year, at least four days per week, and operates year-round.

(15) "Family resource center" means a unified single point of entry where families, individuals, children, and youth in communities can obtain information, an assessment of needs, referral to, or direct delivery of family services in a manner that is welcoming and strength-based.

(a) A family resource center is designed to meet the needs, cultures, and interests of the communities that the family resource center serves.

(b) Family services may be delivered directly to a family at the family resource center by family resource center staff or by providers who contract with or have provider agreements with the family resource center. Any family resource center that provides family services shall comply with applicable state and federal laws and regulations regarding the delivery of such family services, unless required waivers or exemptions have been granted by the appropriate governing body.

(c) Each family resource center shall have one or more family advocates who screen and assess a family's needs and strengths. If requested by the family, the family advocate shall assist the family with setting its own goals and, together with the family, develop a written plan to pursue the family's goals in working towards a greater level of self-reliance or in attaining self-sufficiency.

(16) "Full day program" means an early childhood education and assistance program that offers early learning education for a minimum of (~~one thousand~~) 1,000 hours per year.

(~~(+6)~~) (17) "Low-income child care provider" means a person who administers a child care program that consists of at least (~~(eighty)~~) 80 percent of children receiving working connections child care subsidy.

(~~(+7)~~) (18) "Low-income neighborhood" means a district or community where more than (~~(twenty)~~) 20 percent of households are below the federal poverty level.

(~~(+8)~~) (19) "Negative action" means a court order, court judgment, or an adverse action taken by an agency, in any state, federal, tribal, or foreign jurisdiction, which results in a finding against the applicant reasonably related to the individual's character, suitability, and competence to care for or have unsupervised access to children in child care. This may include, but is not limited to:

(a) A decision issued by an administrative law judge;

(b) A final determination, decision, or finding made by an agency following an investigation;

(c) An adverse agency action, including termination, revocation, or denial of a license or certification, or if pending adverse agency action, the voluntary surrender of a license, certification, or contract in lieu of the adverse action;

(d) A revocation, denial, or restriction placed on any professional license; or

(e) A final decision of a disciplinary board.

(~~(+9)~~) (20) "Nonconviction information" means arrest, founded allegations of child abuse, or neglect pursuant to chapter 26.44 RCW, or other negative action adverse to the applicant.

(~~(+20)~~) (21) "Nonschool age child" means a child who is age six years or younger and who is not enrolled in a public or private school.

~~((21))~~ (22) "Part day program" means an early childhood education and assistance program that offers early learning education for at least two and one-half hours per class session, at least ~~((three hundred twenty))~~ 320 hours per year, for a minimum of ~~((thirty))~~ 30 weeks per year.

~~((22))~~ (23) "Private school" means a private school approved by the state under chapter 28A.195 RCW.

~~((23))~~ (24) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

~~((24))~~ (25) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

~~((25))~~ (26) "School age child" means a child who is five years of age through ~~((twelve))~~ 12 years of age and is attending a public or private school or is receiving home-based instruction under chapter 28A.200 RCW.

~~((26))~~ (27) "Secretary" means the secretary of the department.

~~((27))~~ (28) "Washington state preschool program" means an education program for children three-to-five years of age who have not yet entered kindergarten, such as the early childhood education and assistance program.

Passed by the House February 3, 2021.

Passed by the Senate March 29, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 40

[Engrossed Second Substitute House Bill 1274]

CLOUD COMPUTING—STATE AGENCIES

AN ACT Relating to cloud computing solutions; amending RCW 43.105.020 and 43.105.375; creating new sections; 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 advent of the COVID-19 pandemic has increased the needs of the people of Washington for state services. From unemployment benefits to information on the incidence of disease in the state, Washingtonians have increasingly turned to state government for vital services and information.

(2) The legislature further finds that the state's information technology infrastructure is outdated and with insufficient capacity to handle the increased demand and has, in many cases, not been adequate to enable the state to provide the needed services effectively and efficiently.

(3) Therefore, the legislature intends to migrate the state's information technology toward cloud services, which will deliver the capacity, security, resiliency, disaster recovery capability, and data analytics necessary to allow the state to provide Washingtonians the services they require during this pandemic and in the future.

Sec. 2. RCW 43.105.020 and 2017 c 92 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) "Agency" means the consolidated technology services agency.

(2) "Board" means the technology services board.

(3) "Cloud computing" has the same meaning as provided by the special publication 800-145 issued by the national institute of standards and technology of the United States department of commerce as of September 2011 or its successor publications.

(4) "Customer agencies" means all entities that purchase or use information technology resources, telecommunications, or services from the consolidated technology services agency.

~~((4))~~ (5) "Director" means the state chief information officer, who is the director of the consolidated technology services agency.

~~((5))~~ (6) "Enterprise architecture" means an ongoing activity for translating business vision and strategy into effective enterprise change. It is a continuous activity. Enterprise architecture creates, communicates, and improves the key principles and models that describe the enterprise's future state and enable its evolution.

~~((6))~~ (7) "Equipment" means the machines, devices, and transmission facilities used in information processing, including but not limited to computers, terminals, telephones, wireless communications system facilities, cables, and any physical facility necessary for the operation of such equipment.

~~((7))~~ (8) "Information" includes, but is not limited to, data, text, voice, and video.

~~((8))~~ (9) "Information security" means the protection of communication and information resources from unauthorized access, use, disclosure, disruption, modification, or destruction in order to:

- (a) Prevent improper information modification or destruction;
- (b) Preserve authorized restrictions on information access and disclosure;
- (c) Ensure timely and reliable access to and use of information; and
- (d) Maintain the confidentiality, integrity, and availability of information.

~~((9))~~ (10) "Information technology" includes, but is not limited to, all electronic technology systems and services, automated information handling, system design and analysis, conversion of data, computer programming, information storage and retrieval, telecommunications, requisite system controls, simulation, electronic commerce, radio technologies, and all related interactions between people and machines.

~~((10))~~ (11) "Information technology portfolio" or "portfolio" means a strategic management process documenting relationships between agency missions and information technology and telecommunications investments.

~~((11))~~ (12) "K-20 network" means the network established in RCW 43.41.391.

~~((12))~~ (13) "Local governments" includes all municipal and quasi-municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately.

~~((13))~~ (14) "Office" means the office of the state chief information officer within the consolidated technology services agency.

~~((14))~~ (15) "Oversight" means a process of comprehensive risk analysis and management designed to ensure optimum use of information technology resources and telecommunications.

~~((45))~~ (16) "Proprietary software" means that software offered for sale or license.

~~((46))~~ (17) "Public agency" means any agency of this state or another state; any political subdivision or unit of local government of this state or another state including, but not limited to, municipal corporations, quasi-municipal corporations, special purpose districts, and local service districts; any public benefit nonprofit corporation; any agency of the United States; and any Indian tribe recognized as such by the federal government.

~~((47))~~ (18) "Public benefit nonprofit corporation" means a public benefit nonprofit corporation as defined in RCW 24.03.005 that is receiving local, state, or federal funds either directly or through a public agency other than an Indian tribe or political subdivision of another state.

~~((48))~~ (19) "Public record" has the definitions in RCW 42.56.010 and chapter 40.14 RCW and includes legislative records and court records that are available for public inspection.

~~((49))~~ (20) "Public safety" refers to any entity or services that ensure the welfare and protection of the public.

~~((20))~~ (21) "Security incident" means an accidental or deliberative event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of communication and information resources.

~~((21))~~ (22) "State agency" means every state office, department, division, bureau, board, commission, or other state agency, including offices headed by a statewide elected official.

~~((22))~~ (23) "Telecommunications" includes, but is not limited to, wireless or wired systems for transport of voice, video, and data communications, network systems, requisite facilities, equipment, system controls, simulation, electronic commerce, and all related interactions between people and machines.

~~((23))~~ (24) "Utility-based infrastructure services" includes personal computer and portable device support, servers and server administration, security administration, network administration, telephony, email, and other information technology services commonly used by state agencies.

Sec. 3. RCW 43.105.375 and 2015 3rd sp.s. c 1 s 219 are each amended to read as follows:

(1) Except as provided by subsection (2) of this section, state agencies shall locate all existing and new ~~((servers))~~ information or telecommunications investments in the state data center or within third-party, commercial cloud computing services.

(2) State agencies with a service requirement that ~~((requires servers to be located outside the state data center))~~ precludes them from complying with subsection (1) of this section must receive a waiver from the office. Waivers must be based upon written justification from the requesting state agency citing specific service or performance requirements for locating servers outside the state's common platform.

(3) ~~((The office, in consultation with the office of financial management, shall continue to develop the business plan and migration schedule for moving all state agencies into the state data center.~~

(4)) The legislature and the judiciary, which are constitutionally recognized as separate branches of government, may enter into an interagency agreement

with the office to migrate its servers into the state data center or third-party, commercial cloud computing services.

(5) This section does not apply to institutions of higher education.

NEW SECTION. **Sec. 4.** (1)(a) A task force on cloud transition is established, with members as provided in this subsection.

- (i) The state chief information officer;
- (ii) The state chief information security officer; and
- (iii) The governor shall appoint:

(A) Two representatives from the represented employees' bargaining unit for state employees;

(B) One representative from a company providing third-party cloud computing services;

(C) One representative from a trade association representing cloud computing providers; and

(D) One member from the state board for community and technical colleges.

(b) The task force shall be chaired by the state chief information officer, who shall convene the initial meeting.

(2) The task force shall review the following issues:

(a) The impacts on labor of transitioning to third-party cloud computing services;

(b) The retraining needs that the existing workforce may require to maintain employment in the information technology sector and deliver cloud computing services effectively within state government; and

(c) The optimal method for delivering such training.

(3) Staff support for the task force, including administration of task force meetings, must be provided by the office of the chief information officer.

(4) Members of the task force 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 members is subject to chapter 43.03 RCW.

(5) The task force shall report its findings and recommendations to the governor and the appropriate committees of the legislature by November 30, 2021.

(6) This section expires December 31, 2021.

Passed by the House February 25, 2021.

Passed by the Senate March 29, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 41

[Substitute House Bill 1294]

MISDEMEANANT SUPERVISION SERVICES—INTERLOCAL AGREEMENTS

AN ACT Relating to misdemeanor supervision services by limited jurisdiction courts; amending RCW 4.24.760, 39.34.180, and 70.48.090; and reenacting and amending RCW 10.64.120.

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

Sec. 1. RCW 4.24.760 and 2007 c 174 s 2 are each amended to read as follows:

(1) A limited jurisdiction court that provides misdemeanor supervision services is not liable for civil damages based on the inadequate supervision or monitoring of a misdemeanor defendant or probationer unless the inadequate supervision or monitoring constitutes gross negligence.

(2) For the purposes of this section:

(a) "Limited jurisdiction court" means a district court or a municipal court, and anyone acting or operating at the direction of such court, including but not limited to its officers, employees, agents, contractors, ~~((and))~~ volunteers, and others acting pursuant to an interlocal agreement.

(b) "Misdemeanant supervision services" means preconviction or postconviction misdemeanor probation or supervision services, or the monitoring of a misdemeanor defendant's compliance with a preconviction or postconviction order of the court, including but not limited to community corrections programs, probation supervision, pretrial supervision, or pretrial release services, including such services conducted pursuant to an interlocal agreement.

(3) This section does not create any duty and shall not be construed to create a duty where none exists. Nothing in this section shall be construed to affect judicial immunity.

Sec. 2. RCW 39.34.180 and 2001 c 68 s 4 are each amended to read as follows:

(1) Each county, city, and town is responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions, and referred from their respective law enforcement agencies, whether filed under state law or city ordinance, and must carry out these responsibilities through the use of their own courts, staff, and facilities, or by entering into contracts or interlocal agreements under this chapter to provide these services. Nothing in this section is intended to alter the statutory responsibilities of each county for the prosecution, adjudication, sentencing, and incarceration for not more than one year of felony offenders, nor shall this section apply to any offense initially filed by the prosecuting attorney as a felony offense or an attempt to commit a felony offense. The court of any county, city, or town that wishes to offer probation supervision services may enter into interlocal agreements under subsection (6) of this section to provide those services.

(2) The following principles must be followed in negotiating interlocal agreements or contracts: Cities and counties must consider (a) anticipated costs of services; and (b) anticipated and potential revenues to fund the services, including fines and fees, criminal justice funding, and state-authorized sales tax funding levied for criminal justice purposes.

(3) If an agreement as to the levels of compensation within an interlocal agreement or contract for gross misdemeanor and misdemeanor services cannot be reached between a city and county, then either party may invoke binding arbitration on the compensation issued by notice to the other party. In the case of establishing initial compensation, the notice shall request arbitration within thirty days. In the case of nonrenewal of an existing contract or interlocal agreement, the notice must be given one hundred twenty days prior to the expiration of the existing contract or agreement and the existing contract or agreement remains in effect until a new agreement is reached or until an

arbitration award on the matter of fees is made. The city and county each select one arbitrator, and the initial two arbitrators pick a third arbitrator. This subsection does not apply to the extent that the interlocal agreement is for probation supervision services.

(4) A city or county that wishes to terminate an agreement for the provision of court services must provide written notice of the intent to terminate the agreement in accordance with RCW 3.50.810 and 35.20.010. This subsection does not apply to the extent that the interlocal agreement is for probation supervision services.

(5) For cities or towns that have not adopted, in whole or in part, criminal code or ordinance provisions related to misdemeanor and gross misdemeanor crimes as defined by state law, this section shall have no application until July 1, 1998.

(6) Municipal courts or district courts may enter into interlocal agreements for pretrial and/or post judgment probation supervision services pursuant to ARLJ 11. Such agreements shall not affect the jurisdiction of the court that imposes probation supervision, need not require the referral of all supervised cases by a jurisdiction, and may limit the referral for probation supervision services to a single case. An agreement for probation supervision services is not valid unless approved by the presiding judge of each participating court. The interlocal agreement may not require approval of the local executive and legislative bodies unless the interlocal agreement requires the expenditure of additional funds by the jurisdiction. If the jurisdiction providing probation supervision services is found liable for inadequate supervision, as provided in RCW 4.24.760(1), or is impacted by increased costs pursuant to the interlocal agreement, the presiding judge of the jurisdiction imposing probation supervision shall consult with the executive authority of the jurisdiction imposing probation supervision and determine whether to terminate the interlocal agreement for probation supervision services. All proceedings to grant, modify, or revoke probation must be held in the court that imposes probation supervision. Jail costs and the cost of other sanctions remain with the jurisdiction that imposes probation supervision.

The administrative office of the courts, in cooperation with the district and municipal court judges association and the Washington association of prosecuting attorneys, shall develop a model interlocal agreement.

Sec. 3. RCW 70.48.090 and 2007 c 13 s 1 are each amended to read as follows:

(1) Contracts for jail services may be made between a county and a city, and among counties and cities. The contracts shall: Be in writing, give one governing unit the responsibility for the operation of the jails, specify the responsibilities of each governing unit involved, and include the applicable charges for custody of the prisoners as well as the basis for adjustments in the charges. The contracts may be terminated only by ninety days written notice to the governing units involved and to the office. The notice shall state the grounds for termination and the specific plans for accommodating the affected jail population.

(2) A city or county may contract for jail services with an adjacent county, or city in an adjacent county, in a neighboring state. A person convicted in the courts of this state and sentenced to a term of confinement in a city or county jail may be transported to a jail in the adjacent county to be confined until: (a) The

term of confinement is completed; or (b) that person is returned to be confined in a city or county jail in this state.

(3) The contract authorized in subsection (1) of this section shall be for a minimum term of ten years when state funds are provided to construct or remodel a jail in one governing unit that will be used to house prisoners of other governing units. The contract may not be terminated prior to the end of the term without the office's approval. If the contract is terminated, or upon the expiration and nonrenewal of the contract, the governing unit whose jail facility was built or remodeled to hold the prisoners of other governing units shall pay to the state treasurer the amount set by the corrections standards board or office when it authorized disbursement of state funds for the remodeling or construction under RCW 70.48.120. This amount shall be deposited in the local jail improvement and construction account and shall fairly represent the construction costs incurred in order to house prisoners from other governing units. The office may pay the funds to the governing units which had previously contracted for jail services under rules which the office may adopt. The acceptance of state funds for constructing or remodeling consolidated jail facilities constitutes agreement to the proportionate amounts set by the office. Notice of the proportionate amounts shall be given to all governing units involved. This subsection shall not apply to interlocal agreements under RCW 39.34.180(6).

(4) A city or county primarily responsible for the operation of a jail or jails may create a department of corrections to be in charge of such jail and of all persons confined therein by law, subject to the authority of the governing unit. If such department is created, it shall have charge of jails and persons confined therein. If no such department of corrections is created, the chief law enforcement officer of the city or county primarily responsible for the operation of said jail shall have charge of the jail and of all persons confined therein.

(5) A city or county may enter into an interlocal agreement for the sharing of costs for sanctions imposed by a jurisdiction hosting probation supervision services pursuant to an interlocal agreement under RCW 39.34.180(6).

Sec. 4. RCW 10.64.120 and 2005 c 400 s 7 and 2005 c 282 s 22 are each reenacted and amended to read as follows:

(1) Every judge of a court of limited jurisdiction shall have the authority to levy upon a person a monthly assessment not to exceed one hundred dollars for services provided whenever the person is referred by the court to the misdemeanor probation department for evaluation or supervision services. The assessment may also be made by a judge in superior court when such misdemeanor or gross misdemeanor cases are heard in the superior court. Nothing in this subsection prevents contracting jurisdictions under RCW 39.34.180(6) from agreeing to the division of moneys received for probation supervision services.

(2) For the purposes of this section the administrative office of the courts shall define a probation department and adopt rules for the qualifications of probation officers based on occupational and educational requirements developed by an oversight committee. This oversight committee shall include a representative from the district and municipal court judges' association, the misdemeanor corrections association, the administrative office of the courts, and associations of cities and counties. The oversight committee shall consider qualifications that provide the training and education necessary to (a) conduct

presentencing and postsentencing background investigations, including sentencing recommendations to the court regarding jail terms, alternatives to incarceration, and conditions of release; and (b) provide ongoing supervision and assessment of offenders' needs and the risk they pose to the community.

(3) It shall be the responsibility of the probation services office to implement local procedures approved by the court of limited jurisdiction to ensure collection and payment of such fees into the general fund of the city or county treasury.

(4) Revenues raised under this section shall be used to fund programs for probation services and shall be in addition to those funds provided in RCW 3.62.050.

(5) Assessments and fees levied upon a probationer under this section must be suspended while the probationer is being supervised by another state under RCW 9.94A.745, the interstate compact for adult offender supervision.

Passed by the House February 24, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 42

[Substitute House Bill 1309]

PROPERTY TAX LEVIES—CERTIFICATION DATE

AN ACT Relating to the dates of certification of levies; amending RCW 84.52.070 and 84.56.020; and creating a new section.

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

NEW SECTION. Sec. 1. It is the intent of the legislature to align the statutory dates by which the county legislative authority must certify property tax levies and adopt the county budget. State law currently provides dates by which the county legislative authority must take these two actions that do not align, making county compliance difficult, if not impossible. It is the intent of the legislature to correct this situation by providing a timeline that can be implemented by county officials without negatively impacting junior taxing districts.

Sec. 2. RCW 84.52.070 and 2017 3rd sp.s. c 13 s 307 are each amended to read as follows:

(1) It is the duty of the county legislative authority of each county, on or before the ~~((thirtieth day of November))~~ 15th day of December in each year, to certify to the county assessor the amount of taxes levied upon the property in the county for county purposes, and on or before the first Monday in December the respective amounts of taxes levied by the board for each taxing district, within or coextensive with the county, for district purposes.

(2) It is the duty of the council of each city having a population of three hundred thousand or more, and of the council of each town, and of all officials or boards of taxing districts within or coextensive with the county, authorized by law to levy taxes directly and not through the county legislative authority, on or before the thirtieth day of November in each year, to certify to the county

assessor the amount of taxes levied upon the property within the city, town, or district for city, town, or district purposes.

(3) If a levy amount is certified to the county assessor after the (~~thirtieth day of November~~) applicable deadline in subsection (1) or (2) of this section, the county assessor may use no more than the certified levy amount for the previous year for the taxing district. This subsection (3) does not apply to state levies or when the assessor has not certified assessed values as required by RCW 84.48.130 at least twelve working days before November 30th.

Sec. 3. RCW 84.56.020 and 2019 c 332 s 1 are each amended to read as follows:

Treasurers' tax collection duties.

(1) The county treasurer must be the receiver and collector of all taxes extended upon the tax rolls of the county, whether levied for state, county, school, bridge, road, municipal or other purposes, and also of all fines, forfeitures or penalties received by any person or officer for the use of his or her county. No treasurer may accept tax payments or issue receipts for the same until the treasurer has completed the tax roll for the current year's collection and provided notification of the completion of the roll. Notification may be accomplished electronically, by posting a notice in the office, or through other written communication as determined by the treasurer. All real and personal property taxes and assessments made payable by the provisions of this title are due and payable to the county treasurer on or before the thirtieth day of April and, except as provided in this section, are delinquent after that date.

Tax statements.

(2)(a) Tax statements for the current year's collection must be distributed to each taxpayer on or before March 15th provided that:

(i) All city and other taxing district budgets have been submitted to county legislative authorities by November 30th per RCW 84.52.020;

(ii) The county legislative authority in turn has certified taxes levied to the county assessor (~~by November 30th per~~) in accordance with RCW 84.52.070; and

(iii) The county assessor has delivered the tax roll to the county treasurer by January 15th per RCW 84.52.080.

(b) Each tax statement must include a notice that checks for payment of taxes may be made payable to "Treasurer of County" or other appropriate office, but tax statements may not include any suggestion that checks may be made payable to the name of the individual holding the office of treasurer nor any other individual.

(c) Each tax statement distributed to an address must include a notice with information describing the:

(i) Property tax exemption program pursuant to RCW 84.36.379 through 84.36.389; and

(ii) Property tax deferral program pursuant to chapter 84.38 RCW.

Tax payment due dates.

On-time tax payments: First-half taxes paid by April 30th and second-half taxes paid by October 31st.

(3) When the total amount of tax or special assessments on personal property or on any lot, block or tract of real property payable by one person is fifty dollars or more, and if one-half of such tax is paid on or before the thirtieth

day of April, the remainder of such tax is due and payable on or before the following thirty-first day of October and is delinquent after that date.

Delinquent tax payments for current year: First-half taxes paid after April 30th.

(4) When the total amount of tax or special assessments on any lot, block or tract of real property or on any mobile home payable by one person is fifty dollars or more, and if one-half of such tax is paid after the thirtieth day of April but before the thirty-first day of October, together with the applicable interest and penalty on the full amount of tax payable for that year, the remainder of such tax is due and payable on or before the following thirty-first day of October and is delinquent after that date.

Delinquent tax payments: Interest, penalties, and treasurer duties.

(5) Except as provided in (c) of this subsection, delinquent taxes under this section are subject to interest at the rate of twelve percent per annum computed on a monthly basis on the amount of tax delinquent from the date of delinquency until paid. Interest must be calculated at the rate in effect at the time of the tax payment, regardless of when the taxes were first delinquent. In addition, delinquent taxes under this section are subject to penalties as follows:

(a) A penalty of three percent of the amount of tax delinquent is assessed on the tax delinquent on June 1st of the year in which the tax is due.

(b) An additional penalty of eight percent is assessed on the delinquent tax amount on December 1st of the year in which the tax is due.

(c) If a taxpayer is successfully participating in a payment agreement under subsection (15)(b) of this section or a partial payment program pursuant to subsection (15)(c) of this section, the county treasurer may not assess additional penalties on delinquent taxes that are included within the payment agreement. Interest and penalties that have been assessed prior to the payment agreement remain due and payable as provided in the payment agreement.

(6) A county treasurer must provide notification to each taxpayer whose taxes have become delinquent under subsections (4) and (5) of this section. The delinquency notice must specify where the taxpayer can obtain information regarding:

(a) Any current tax or special assessments due as of the date of the notice;

(b) Any delinquent tax or special assessments due, including any penalties and interest, as of the date of the notice; and

(c) Where the taxpayer can pay his or her property taxes directly and contact information, including but not limited to the phone number, for the statewide foreclosure hotline recommended by the Washington state housing finance commission.

(7) Within ninety days after the expiration of two years from the date of delinquency (when a taxpayer's taxes have become delinquent), the county treasurer must provide the name and property address of the delinquent taxpayer to a homeownership resource center or any other designated local or state entity recommended by the Washington state housing finance commission.

Collection of foreclosure costs.

(8)(a) When real property taxes become delinquent and prior to the filing of the certificate of delinquency, the treasurer is authorized to assess and collect tax foreclosure avoidance costs.

(b) When tax foreclosure avoidance costs are collected, such costs must be credited to the county treasurer service fund account, except as otherwise directed.

(c) For purposes of chapter 84.64 RCW, any taxes, interest, or penalties deemed delinquent under this section remain delinquent until such time as all taxes, interest, and penalties for the tax year in which the taxes were first due and payable have been paid in full.

Periods of armed conflict.

(9) Subsection (5) of this section notwithstanding, no interest or penalties may be assessed during any period of armed conflict regarding delinquent taxes imposed on the personal residences owned by active duty military personnel who are participating as part of one of the branches of the military involved in the conflict and assigned to a duty station outside the territorial boundaries of the United States.

State of emergency.

(10) During a state of emergency declared under RCW 43.06.010(12), the county treasurer, on his or her own motion or at the request of any taxpayer affected by the emergency, may grant extensions of the due date of any taxes payable under this section as the treasurer deems proper.

Retention of funds from interest.

(11) All collections of interest on delinquent taxes must be credited to the county current expense fund.

(12) For purposes of this chapter, "interest" means both interest and penalties.

Retention of funds from property foreclosures and sales.

(13) The direct cost of foreclosure and sale of real property, and the direct fees and costs of distraint and sale of personal property, for delinquent taxes, must, when collected, be credited to the operation and maintenance fund of the county treasurer prosecuting the foreclosure or distraint or sale; and must be used by the county treasurer as a revolving fund to defray the cost of further foreclosure, distraint, and sale because of delinquent taxes without regard to budget limitations and not subject to indirect costs of other charges.

Tax due dates and options for tax payment collections.

Electronic billings and payments.

(14) For purposes of this chapter, and in accordance with this section and RCW 36.29.190, the treasurer may collect taxes, assessments, fees, rates, interest, and charges by electronic billing and payment. Electronic billing and payment may be used as an option by the taxpayer, but the treasurer may not require the use of electronic billing and payment. Electronic bill presentment and payment may be on a monthly or other periodic basis as the treasurer deems proper for:

- (a) Delinquent tax year payments; and
- (b) Prepayments of current tax.

Tax payments.

Prepayment for current taxes.

(15)(a) The treasurer may accept prepayments for current year taxes by any means authorized. All prepayments must be paid in full by the due date specified in subsection (16) of this section.

Payment agreements for current year taxes.

(b)(i) The treasurer may provide, by electronic means or otherwise, a payment agreement that provides for payment of current year taxes, inclusive of prepayment collection charges. The payment agreement must be signed by the taxpayer and treasurer or the treasurer's deputy prior to the sending of an electronic or alternative bill, which includes a payment plan for current year taxes.

Payment agreements for delinquent year taxes.

(ii)(A) The treasurer may provide, by electronic means or otherwise, a payment agreement for payment of past due delinquencies. The payment agreement must be signed by the taxpayer and treasurer or the treasurer's deputy prior to the sending of an electronic or alternative bill, which includes a payment plan for past due delinquent taxes and charges.

(B) Tax payments received by a treasurer for delinquent year taxes from a taxpayer participating on a payment agreement must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

Partial payments: Acceptance of partial payments for current and delinquent taxes.

(c)(i) In addition to the payment agreement program in (b) of this subsection, the treasurer may accept partial payment of any current and delinquent taxes including interest and penalties by any means authorized including electronic bill presentment and payments.

(ii) All tax payments received by a treasurer for delinquent year taxes from a taxpayer paying a partial payment must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

Payment for delinquent taxes.

(d) Payments on past due taxes must include collection of the oldest delinquent year, which includes interest, penalties, and taxes within an eighteen-month period, prior to filing a certificate of delinquency under chapter 84.64 RCW or distraint pursuant to RCW 84.56.070.

Due date for tax payments.

(16) All taxes upon real and personal property made payable by the provisions of this title are due and payable to the treasurer on or before the thirtieth day of April and are delinquent after that date. The remainder of the tax is due and payable on or before the following thirty-first of October and is delinquent after that date. All other assessments, fees, rates, and charges are delinquent after the due date.

Electronic funds transfers.

(17) A county treasurer may authorize payment of:

(a) Any current property taxes due under this chapter by electronic funds transfers on a monthly or other periodic basis; and

(b) Any past due property taxes, penalties, and interest under this chapter by electronic funds transfers on a monthly or other periodic basis. Delinquent taxes are subject to interest and penalties, as provided in subsection (5) of this section. All tax payments received by a treasurer from a taxpayer paying delinquent year taxes must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

Payment for administering prepayment collections.

(18) The treasurer must pay any collection costs, investment earnings, or both on past due payments or prepayments to the credit of a county treasurer

service fund account to be created and used only for the payment of expenses incurred by the treasurer, without limitation, in administering the system for collecting prepayments.

Waiver of interest and penalties for qualified taxpayers subject to foreclosure.

(19) No earlier than sixty days prior to the date that is three years after the date of delinquency, the treasurer must waive all outstanding interest and penalties on delinquent taxes due from a taxpayer if the property is subject to an action for foreclosure under chapter 84.64 RCW and the following requirements are met:

(a) The taxpayer is income-qualified under RCW 84.36.381(5)(a), as verified by the county assessor;

(b) The taxpayer occupies the property as their principal place of residence; and

(c) The taxpayer has not previously received a waiver on the property as provided under this subsection.

Definitions.

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

(a) "Electronic billing and payment" means statements, invoices, or bills that are created, delivered, and paid using the internet. The term includes an automatic electronic payment from a person's checking account, debit account, or credit card.

(b) "Internet" has the same meaning as provided in RCW 19.270.010.

(c) "Tax foreclosure avoidance costs" means those direct costs associated with the administration of properties subject to and prior to foreclosure. Tax foreclosure avoidance costs include:

(i) Compensation of employees for the time devoted to administering the avoidance of property foreclosure; and

(ii) The cost of materials, services, or equipment acquired, consumed, or expended in administering tax foreclosure avoidance prior to the filing of a certificate of delinquency.

Passed by the House February 24, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 43

[House Bill 1315]

DOMESTIC VIOLENCE WORKPLACE RESOURCES—TASK FORCE

AN ACT Relating to creating a task force to identify the role of the workplace in helping curb domestic violence; 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 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 54,000 domestic violence offenses were reported to law enforcement and 49 domestic violence homicides were committed.

(2) The legislature finds that the COVID-19 pandemic has increased the severity of the domestic violence crisis and the urgency of addressing the crisis. Economic independence is highly correlated with preventing intimate partner violence, and the pandemic has decreased opportunities for economic independence across many groups. The increased gaps in childcare and social services under the pandemic, along with increased isolation with abusers, have exacerbated existing issues. Further, mandated closures and lockdowns have decreased opportunities for community reporting of signs of domestic abuse, such as by teachers or medical professionals, and increased the bureaucratic difficulties in reporting processes.

(3) 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. In either a physical or remote environment, individuals experiencing domestic violence may also find the workplace a place of shared confidences. Therefore, the legislature intends to create a task force to explore ways in which the employer and employee community may help curb domestic violence.

(4) This section expires June 30, 2023.

NEW SECTION. Sec. 2. (1) The department of commerce shall convene a task force on domestic violence and workplace resources to identify the role of the workplace in helping to curb domestic violence.

(2) The members of the task force are as provided in this subsection. The department of commerce shall appoint:

(a) One member representing each of the following:

- (i) The association of Washington business;
- (ii) The national federation of independent business;
- (iii) The Washington hospitality association;
- (iv) The Washington retail association;
- (v) The Washington state labor council;
- (vi) The Washington coalition of sexual assault programs;
- (vii) The Washington coalition against domestic violence; and
- (viii) A federally recognized tribe;

(b) A business owner;

(c) A survivor of domestic violence; and

(d) Up to two additional members.

(3) The task force shall choose the chair or cochairs from among its membership.

(4) The task force shall review the following issues:

(a) The role of the workplace in the lives of individuals experiencing domestic violence;

(b) The appropriate role of employers and employees in helping reduce the incidence of domestic violence; and

(c) Whether legislation is needed to address the issues outlined in this subsection.

(5) The department of commerce shall convene the meetings and provide staff support for the task force.

(6) The task force shall submit:

(a) A preliminary report with its findings and recommendations to the appropriate committees of the legislature by December 1, 2021; and

(b) A final report with its findings and recommendations to the appropriate committees of the legislature by December 1, 2022.

(7) This section expires June 30, 2023.

Passed by the House March 1, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 44

[House Bill 1378]

MEDICAL ASSISTANTS—TELEMEDICINE SUPERVISION

AN ACT Relating to the supervision of medical assistants; amending RCW 18.360.010; reenacting and amending RCW 18.360.010; 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 18.360.010 and 2017 c 336 s 14 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) "Administer" means the retrieval of medication, and its application to a patient, as authorized in RCW 18.360.050.

(2) "Delegation" means direct authorization granted by a licensed health care practitioner to a medical assistant to perform the functions authorized in this chapter which fall within the scope of practice of the health care provider and the training and experience of the medical assistant.

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

(4) "Forensic phlebotomist" means a police officer, law enforcement officer, or employee of a correctional facility or detention facility, who is certified under this chapter and meets any additional training and proficiency standards of his or her employer to collect a venous blood sample for forensic testing pursuant to a search warrant, a waiver of the warrant requirement, or exigent circumstances.

(5) "Health care practitioner" means:

(a) A physician licensed under chapter 18.71 RCW;

(b) An osteopathic physician and surgeon licensed under chapter 18.57 RCW; or

(c) Acting within the scope of their respective licensure, a podiatric physician and surgeon licensed under chapter 18.22 RCW, a registered nurse or advanced registered nurse practitioner licensed under chapter 18.79 RCW, a naturopath licensed under chapter 18.36A RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician assistant licensed under chapter 18.57A RCW, or an optometrist licensed under chapter 18.53 RCW.

(6) "Medical assistant-certified" means a person certified under RCW 18.360.040 who assists a health care practitioner with patient care, executes

administrative and clinical procedures, and performs functions as provided in RCW 18.360.050 under the supervision of the health care practitioner.

(7) "Medical assistant-hemodialysis technician" means a person certified under RCW 18.360.040 who performs hemodialysis and other functions pursuant to RCW 18.360.050 under the supervision of a health care practitioner.

(8) "Medical assistant-phlebotomist" means a person certified under RCW 18.360.040 who performs capillary, venous, and arterial invasive procedures for blood withdrawal and other functions pursuant to RCW 18.360.050 under the supervision of a health care practitioner.

(9) "Medical assistant-registered" means a person registered under RCW 18.360.040 who, pursuant to an endorsement by a health care practitioner, clinic, or group practice, assists a health care practitioner with patient care, executes administrative and clinical procedures, and performs functions as provided in RCW 18.360.050 under the supervision of the health care practitioner.

(10) "Secretary" means the secretary of the department of health.

(11)(a) "Supervision" means supervision of procedures permitted pursuant to this chapter by a health care practitioner who is physically present and is immediately available in the facility, except as provided in (b) and (c) of this subsection.

(b) The health care practitioner does not need to be present during procedures to withdraw blood, but must be immediately available.

(c) During a telemedicine visit, supervision over a medical assistant assisting a health care practitioner with the telemedicine visit may be provided through interactive audio and video telemedicine technology.

Sec. 2. RCW 18.360.010 and 2020 c 80 s 26 are each amended to read as follows:

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

(1) "Administer" means the retrieval of medication, and its application to a patient, as authorized in RCW 18.360.050.

(2) "Delegation" means direct authorization granted by a licensed health care practitioner to a medical assistant to perform the functions authorized in this chapter which fall within the scope of practice of the health care provider and the training and experience of the medical assistant.

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

(4) "Forensic phlebotomist" means a police officer, law enforcement officer, or employee of a correctional facility or detention facility, who is certified under this chapter and meets any additional training and proficiency standards of his or her employer to collect a venous blood sample for forensic testing pursuant to a search warrant, a waiver of the warrant requirement, or exigent circumstances.

(5) "Health care practitioner" means:

(a) A physician licensed under chapter 18.71 RCW;

(b) An osteopathic physician and surgeon licensed under chapter 18.57 RCW; or

(c) Acting within the scope of their respective licensure, a podiatric physician and surgeon licensed under chapter 18.22 RCW, a registered nurse or advanced registered nurse practitioner licensed under chapter 18.79 RCW, a naturopath licensed under chapter 18.36A RCW, a physician assistant licensed

under chapter 18.71A RCW, or an optometrist licensed under chapter 18.53 RCW.

(6) "Medical assistant-certified" means a person certified under RCW 18.360.040 who assists a health care practitioner with patient care, executes administrative and clinical procedures, and performs functions as provided in RCW 18.360.050 under the supervision of the health care practitioner.

(7) "Medical assistant-hemodialysis technician" means a person certified under RCW 18.360.040 who performs hemodialysis and other functions pursuant to RCW 18.360.050 under the supervision of a health care practitioner.

(8) "Medical assistant-phlebotomist" means a person certified under RCW 18.360.040 who performs capillary, venous, and arterial invasive procedures for blood withdrawal and other functions pursuant to RCW 18.360.050 under the supervision of a health care practitioner.

(9) "Medical assistant-registered" means a person registered under RCW 18.360.040 who, pursuant to an endorsement by a health care practitioner, clinic, or group practice, assists a health care practitioner with patient care, executes administrative and clinical procedures, and performs functions as provided in RCW 18.360.050 under the supervision of the health care practitioner.

(10) "Secretary" means the secretary of the department of health.

(11)(a) "Supervision" means supervision of procedures permitted pursuant to this chapter by a health care practitioner who is physically present and is immediately available in the facility, except as provided in (b) and (c) of this subsection.

(b) The health care practitioner does not need to be present during procedures to withdraw blood, but must be immediately available.

(c) During a telemedicine visit, supervision over a medical assistant assisting a health care practitioner with the telemedicine visit may be provided through interactive audio and video telemedicine technology.

NEW SECTION. Sec. 3. 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.

NEW SECTION. Sec. 4. Section 1 of this act expires July 1, 2022.

NEW SECTION. Sec. 5. Section 2 of this act takes effect July 1, 2022.

Passed by the House February 23, 2021.

Passed by the Senate March 30, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 45

[House Bill 1393]

PHOTOVOLTAIC MODULE STEWARDSHIP AND TAKEBACK PROGRAM— IMPLEMENTATION DATES

AN ACT Relating to delaying certain implementation dates for the photovoltaic module stewardship and takeback program; and reenacting and amending RCW 70A.510.010.

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

Sec. 1. RCW 70A.510.010 and 2020 c 287 s 1 are each reenacted and amended to read as follows:

(1) The legislature finds that a convenient, safe, and environmentally sound system for the recycling of photovoltaic modules, minimization of hazardous waste, and recovery of commercially valuable materials must be established. The legislature further finds that the responsibility for this system must be shared among all stakeholders, with manufacturers financing the takeback and recycling system.

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

(a) "Consumer electronic device" means any device containing an electronic circuit board that is intended for everyday use by individuals, such as a watch or calculator.

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

(c) "Distributor" means a person who markets and sells photovoltaic modules to retailers in Washington.

(d) "Installer" means a person who assembles, installs, and maintains photovoltaic module systems.

(e) "Manufacturer" means any person in business or no longer in business but having a successor in interest who, irrespective of the selling technique used, including by means of distance or remote sale:

(i) Manufactures or has manufactured a photovoltaic module under its own brand names for use or sale in or into this state;

(ii) Assembles or has assembled a photovoltaic module that uses parts manufactured by others for use or sale in or into this state under the assembler's brand names;

(iii) Resells or has resold in or into this state under its own brand names a photovoltaic module produced by other suppliers, including retail establishments that sell photovoltaic modules under their own brand names;

(iv) Manufactures or has manufactured a cobranded photovoltaic module product for use or sale in or into this state that carries the name of both the manufacturer and a retailer;

(v) Imports or has imported a photovoltaic module into the United States that is used or sold in or into this state. However, if the imported photovoltaic module is manufactured by any person with a presence in the United States meeting the criteria of manufacturer under (e)(i) through (vi) of this subsection, that person is the manufacturer;

(vi) Sells at retail a photovoltaic module acquired from an importer that is the manufacturer and elects to register as the manufacturer for those products; or

(vii) Elects to assume the responsibility and register in lieu of a manufacturer as defined under (e)(i) through (vi) of this subsection.

(f) "Photovoltaic module" means the smallest nondivisible, environmentally protected assembly of photovoltaic cells or other photovoltaic collector technology and ancillary parts intended to generate electrical power under sunlight, except that "photovoltaic module" does not include a photovoltaic cell that is part of a consumer electronic device for which it provides electricity needed to make the consumer electronic device function. "Photovoltaic module" includes but is not limited to interconnections, terminals, and protective devices such as diodes that:

(i) Are installed on, connected to, or integral with buildings;
 (ii) Are used as components of freestanding, off-grid, power generation systems, such as for powering water pumping stations, electric vehicle charging stations, fencing, street and signage lights, and other commercial or agricultural purposes; or

(iii) Are part of a system connected to the grid or utility service.

(g) "Predecessor" means an entity from which a manufacturer purchased a photovoltaic module brand, its warranty obligations, and its liabilities. "Predecessor" does not include entities from which a manufacturer purchased only manufacturing equipment.

(h) "Rare earth element" means lanthanum, cerium, praseodymium, neodymium, promethium, samarium, europium, gadolinium, terbium, dysprosium, holmium, erbium, thulium, ytterbium, lutetium, yttrium, or scandium.

(i) "Retailer" means a person who offers photovoltaic modules for retail sale in the state through any means including, but not limited to, remote offerings such as sales outlets, catalogs, or internet sales.

(j) "Reuse" means any operation by which a photovoltaic module or a component of a photovoltaic module changes ownership and is used for the same purpose for which it was originally purchased.

(k) "Stewardship plan" means the plan developed by a manufacturer or its designated stewardship organization for a self-directed stewardship program.

(l) "Stewardship program" means the activities conducted by a manufacturer or a stewardship organization to fulfill the requirements of this chapter and implement the activities described in its stewardship plan.

(3) The department must develop guidance for a photovoltaic module stewardship and takeback program to guide manufacturers in preparing and implementing a self-directed program to ensure the convenient, safe, and environmentally sound takeback and recycling of photovoltaic modules and their components and materials. By January 1, 2018, the department must establish a process to develop guidance for photovoltaic module stewardship plans by working with manufacturers, stewardship organizations, and other stakeholders on the content, review, and approval of stewardship plans. The department's process must be fully implemented and stewardship plan guidance completed by July 1, 2019.

(4) A stewardship organization may be designated to act as an agent on behalf of a manufacturer or manufacturers in operating and implementing the stewardship program required under this chapter. Any stewardship organization that has obtained such designation must provide to the department a list of the manufacturers and brand names that the stewardship organization represents within sixty days of its designation by a manufacturer as its agent, or within sixty days of removal of such designation.

(5) Each manufacturer must prepare and submit a stewardship plan to the department by the later of July 1, (~~2022~~) 2024, or within thirty days of its first sale of a photovoltaic module in or into the state.

(a) A stewardship plan must, at a minimum:

(i) Describe how manufacturers will finance the takeback and recycling system, and include an adequate funding mechanism to finance the costs of collection, management, and recycling of photovoltaic modules and residuals

sold in or into the state by the manufacturer with a mechanism that ensures that photovoltaic modules can be delivered to takeback locations without cost to the last owner or holder;

(ii) Accept all of their photovoltaic modules sold in or into the state after July 1, 2017;

(iii) Describe how the program will minimize the release of hazardous substances into the environment and maximize the recovery of other components, including rare earth elements and commercially valuable materials;

(iv) Provide for takeback of photovoltaic modules at locations that are within the region of the state in which their photovoltaic modules were used and are as convenient as reasonably practicable, and if no such location within the region of the state exists, include an explanation for the lack of such location;

(v) Identify how relevant stakeholders, including consumers, installers, building demolition firms, and recycling and treatment facilities, will receive information required in order for them to properly dismantle, transport, and treat the end-of-life photovoltaic modules in a manner consistent with the objectives described in (a)(iii) of this subsection;

(vi) Establish performance goals, including a goal for the rate of combined reuse and recycling of collected photovoltaic modules as a percentage of the total weight of photovoltaic modules collected, which rate must be no less than eighty-five percent.

(b) A manufacturer must implement the stewardship plan.

(c) A manufacturer may periodically amend its stewardship plan. The department must approve the amendment if it meets the requirements for plan approval outlined in the department's guidance. When submitting proposed amendments, the manufacturer must include an explanation of why such amendments are necessary.

(6) The department must approve a stewardship plan if it determines the plan addresses each element outlined in the department's guidance.

(7)(a) Beginning April 1, (~~2024~~) 2026, and by April 1st in each subsequent year, a manufacturer, or its designated stewardship organization, must provide to the department a report for the previous calendar year that documents implementation of the plan and assesses achievement of the performance goals established in subsection (5)(a)(vi) of this section.

(b) The report may include any recommendations to the department or the legislature on modifications to the program that would enhance the effectiveness of the program, including management of program costs and mitigation of environmental impacts of photovoltaic modules.

(c) The manufacturer or stewardship organization must post this report on a publicly accessible website.

(8) Beginning July 1, (~~2023~~) 2025, no manufacturer, distributor, retailer, or installer may sell or offer for sale a photovoltaic module in or into the state unless the manufacturer of the photovoltaic module has submitted to the department a stewardship plan and received plan approval.

(a) The department must send a written warning to a manufacturer that is not participating in a plan. The written warning must inform the manufacturer that it must submit a plan or participate in a plan within thirty days of the notice. The department may assess a penalty of up to ten thousand dollars upon a manufacturer for each sale that occurs in or into the state of a photovoltaic

module for which a stewardship plan has not been submitted by the manufacturer and approved by the department after the initial written warning. A manufacturer may appeal a penalty issued under this section to the superior court of Thurston county within one hundred eighty days of receipt of the notice.

(b) The department must send a written warning to a distributor, retailer, or installer that sells or installs a photovoltaic module made by a manufacturer that is not participating in a plan. The written warning must inform the distributor, retailer, or installer that they may no longer sell or install a photovoltaic module if a stewardship plan for that brand has not been submitted by the manufacturer and approved by the department within thirty days of the notice.

(9) The department may collect a flat fee from participating manufacturers to recover costs associated with the plan guidance, review, and approval process described in subsection (3) of this section. Other administrative costs incurred by the department for program implementation activities, including stewardship plan review and approval, enforcement, and any rule making, may be recovered by charging every manufacturer an annual fee calculated by dividing department administrative costs by the manufacturer's pro rata share of the Washington state photovoltaic module sales in the most recent preceding calendar year, based on best available information. The sole purpose of assessing the fees authorized in this subsection is to predictably and adequately fund the department's costs of administering the photovoltaic module recycling program.

(10) The photovoltaic module recycling account is created in the custody of the state treasurer. All fees collected from manufacturers under this chapter must be deposited in the account. Expenditures from the account may be used only for administering this chapter. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Funds in the account may not be diverted for any purpose or activity other than those specified in this section.

(11) The department may adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter.

(12) In lieu of preparing a stewardship plan and as provided by subsection (5) of this section, a manufacturer may participate in a national program for the convenient, safe, and environmentally sound takeback and recycling of photovoltaic modules and their components and materials, if substantially equivalent to the intent of the state program. The department may determine substantial equivalence if it determines that the national program adequately addresses and fulfills each of the elements of a stewardship plan outlined in subsection (5)(a) of this section and includes an enforcement mechanism reasonably calculated to ensure a manufacturer's compliance with the national program. Upon issuing a determination of substantial equivalence, the department must notify affected stakeholders including the manufacturer. If the national program is discontinued or the department determines the national program is no longer substantially equivalent to the state program in Washington, the department must notify the manufacturer and the manufacturer must provide a stewardship plan as described in subsection (5)(a) of this section to the department for approval within thirty days of notification.

Passed by the House February 26, 2021.

Passed by the Senate March 29, 2021.

Approved by the Governor April 14, 2021.
Filed in Office of Secretary of State April 15, 2021.

CHAPTER 46

[House Bill 1437]

VESSEL CREWMEMBER LICENSES—VARIOUS PROVISIONS

AN ACT Relating to a vessel crewmember license; and amending RCW 77.65.610.

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

Sec. 1. RCW 77.65.610 and 2017 3rd sp.s. c 8 s 15 are each amended to read as follows:

(1)(a) An individual age sixteen and older who works on board any vessel while operating in a commercial fishery regulated by the state must obtain a crewmember license from the department. However, an individual on the vessel designated as the primary or alternate operator on the commercial fishing license and an individual on the vessel licensed and working as a geoduck diver or geoduck tender do not also need a crewmember license. Crewmembers working for licensed charters or guides are not required to have a crewmember license.

(b) A crewmember license is required for each individual who participates in the operation of the vessel or the harvest. For the purposes of this section, the term "harvest" includes participation in tending, deploying, retrieving, or baiting fishing gear, harvesting, or placing fish or shellfish in holds.

(c) Each individual required to have a crewmember license as set forth in this section must have in their possession at least one piece of identifying documentation as specified in RCW 46.20.035(1) (a) through (f) that contains the signature and a photograph of the individual and produce the documentation at the request of a fish and wildlife officer or ex officio fish and wildlife officer.

(d) An albacore tuna crewmember license satisfies the requirements specified in (a) and (b) of this subsection on vessels fishing for albacore tuna or baitfish lampara.

(2) A crewmember license must be purchased in the name of the individual working as the crewmember. The license holder may use the license aboard any commercial fishing vessel, except an albacore tuna crewmember license is only valid for participating in the albacore tuna fishery or baitfish lampara fishery. A crewmember license purchased by a crewmember may not be transferred to another individual.

(3) Up to two crewmember licenses may be purchased and held by a commercial fishing license holder for use by any individual working on the vessel named in the commercial fishing license, as long as the individual is not prohibited from obtaining a crewmember license. Each crewmember license held by a commercial fishing license holder covers one crewmember per trip, but the same crewmember license may be used to authorize a different individual to act as a crewmember on a subsequent trip. The commission may adopt fishery specific rules that:

(a) Increase the number of crewmember licenses that may be held by a commercial fishing license holder;

(b) Pertain to the issuance, period of validity, use, possession, and display of the licenses.

(4) The fee for an annual crewmember license is thirty-five dollars for residents and one hundred ten dollars for nonresidents. The fee for an annual albacore tuna crewmember license is thirty-five dollars for residents and nonresidents. Additional application fees and surcharges do not apply except that if the license is purchased through the automated licensing system the fees authorized in RCW 77.32.050 apply.

(5) The licenses must be available through the automated licensing system and transaction fees and dealer fees apply, except as provided in subsection (4) of this section. The annual crewmember license is valid for a calendar year.

(6) Family members of the commercial license holder or alternate operators are exempt from the requirements of this section. For purposes of this section, family members include children, grandchildren, spouse, parents, or siblings of the commercial license holder.

Passed by the House March 2, 2021.

Passed by the Senate March 30, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 47

[Engrossed House Bill 1471]

COMMUNITY PRESERVATION AND DEVELOPMENT AUTHORITIES—VARIOUS PROVISIONS

AN ACT Relating to community preservation and development authorities; and amending RCW 43.167.003 and 43.167.010.

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

Sec. 1. RCW 43.167.003 and 2019 c 447 s 3 are each amended to read as follows:

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

(1) "Community" means a group of people who reside or work in the geographic area established by the community preservation and development authority board or the proposal to create the authority and who currently or historically share a distinct cultural identity or local history.

(2) "Community preservation and development authority" or "authority" means ((an authority)) a public body corporate and politic and instrumentality of the state of Washington created by members of an impacted community.

(3) "Constituency" means the general membership of the community preservation and development authority, which membership must be open to all persons eighteen years of age and over who are residents, property owners, employees, or business persons within the geographic boundaries established by the authority or the proposal to create the authority.

(4) "Impacted community" means a community that has been adversely impacted by the construction of, or ongoing operation of, multiple major public facilities, public works, and capital projects with significant public funding or by other land use decisions.

(5) "Major public facilities project, public works project, or capital project with significant public funding" means any capital project whose total cost

exceeds ten million dollars. On July 1, 2019, and on July 1st of each odd-numbered year thereafter, the capital project cost threshold must be adjusted by the capital project cost adjustment factor for inflation established by the office of financial management.

Sec. 2. RCW 43.167.010 and 2019 c 447 s 4 are each amended to read as follows:

(1) The residents, property owners, employees, or business owners of an impacted community may propose formation of a community preservation and development authority. The proposal to form a community preservation and development authority must be presented in writing to the appropriate legislative committee in both the house of representatives and the senate. The proposal must contain proposed general geographic boundaries that will be used to define the community for the purposes of the authority. Proposals presented after January 1, 2020, must identify in its proposal one or more stable revenue sources that (a) have a nexus with the multiple publicly funded facilities or other land use decisions that have adversely impacted the community, and (b) can be used to support future operating or capital projects that will be identified in the strategic plan required under RCW 43.167.030.

(2) Formation of the community preservation and development authority is subject to legislative authorization by statute. The legislature must find that (a) the area within the proposal's geographic boundaries meets the definition of "impacted community" contained in RCW 43.167.003(4) and (b) those persons that have brought forth the proposal are members of the community as defined in RCW 43.167.003(1) and, if the authority were approved, would meet the definition of constituency contained in RCW 43.167.003(3). For proposals brought after January 1, 2020, the legislature must also find that the community has identified one or more stable revenue sources as required in subsection (1) of this section. The legislature may then act to authorize the establishment of the community preservation and development authority in law.

(3) The affairs of a community preservation and development authority shall be managed by a board of directors, consisting of the following members:

(a) Two members who own, operate, or represent businesses within the community;

(b) Two members who reside in the community;

(c) Two members who are involved in providing nonprofit community or social services within the community;

(d) Two members who are involved in the arts and entertainment within the community;

(e) Two members with knowledge of the community's culture and history;

(f) One member who is involved in a nonprofit or public planning organization that directly serves the impacted community; and

(g) Two representatives of the local legislative authority or authorities, as ex officio members.

(4) No member of the board shall hold office for more than ~~((four))~~ six years. Board positions shall be numbered one through nine, and the terms staggered as follows:

(a) Board members elected to positions one through five shall serve ~~((two-year))~~ three-year terms, and if reelected, may serve no more than one additional ~~((two-year))~~ three-year term.

(b) Board members initially elected to positions six through thirteen shall serve a ~~((three-year))~~ two-year term ~~((only))~~, and if reelected, may serve no more than one additional three-year term.

(c) Board members elected to positions six through thirteen after the ~~((initial three-year term))~~ initially elected members shall serve ~~((two-year))~~ three-year terms, and if reelected, may serve no more than one additional ~~((two-year))~~ three-year term.

(5) With respect to an authority's initial board of directors: The state legislative delegation and those proposing formation of the authority shall jointly establish a committee to select the members of the initial board of directors once the authority has received legislative approval as established in subsection (2) of this section. For the purpose of identifying those persons who meet the criteria in subsection (3)(a) through (e) of this section, community shall mean the proposed geographic boundaries as set out in the proposal.

(6) With respect to subsequent elections of an authority's board of directors: A list of candidates shall be developed by the authority's existing board of directors and the election shall be held during the annual local town hall meeting as required in RCW 43.167.030.

Passed by the House March 1, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 48

[Engrossed Second Substitute House Bill 1480]

LIQUOR LICENSEE PRIVILEGES—EXTENSION

AN ACT Relating to extending certain privileges granted to liquor licensees to mitigate the impact of the coronavirus pandemic; amending RCW 66.24.630 and 82.08.150; adding a new section to chapter 66.08 RCW; creating new sections; providing expiration dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. The COVID-19 pandemic that arrived in Washington in 2020 led to historic economic disruptions and devastating health impacts in the state. In an effort to assist businesses and employees whose assets and livelihoods have been impacted by the strategies used to protect the public's health, the legislature finds that steps must be taken in the public interest to support the most severely impacted industries. The hospitality industry has suffered some of the most devastating impacts of any sector of the state's economy. The legislature finds that assisting this sector of the state's economy to survive and recover from the effects of the pandemic and the steps taken to combat its spread are an urgent priority that is in the best interests of the state and its residents. The legislature intends that these revisions at the same time continue to promote regulation of an orderly market for liquor sales while maintaining protection of public health and efficient collection of taxes and fees.

NEW SECTION. Sec. 2. (1) The board must implement the provisions of this section as expeditiously as possible. Liquor licensees may conduct activities authorized under this section before completion by the board of actions the

board plans to take in order to implement this act, such as adoption of rules or completion of information system changes necessary to allow licensees to apply for required endorsements. However, licensees must comply with board rules when they take effect.

(2) The following licensees may sell alcohol products at retail for curbside and takeout service or delivery or both under liquor and cannabis board licenses and endorsements: Beer and wine restaurants; spirits, beer, and wine restaurants; taverns; domestic wineries; domestic breweries and microbreweries; distilleries; snack bars; nonprofit arts licensees; and caterers.

(3) Spirits, beer, and wine restaurant licensees may sell premixed cocktails and cocktail kits for takeout or curbside service and for delivery. The board may establish by rule the manner in which cocktails for off-premises consumption must be provided. This subsection does not authorize sale of full bottles of spirits by licensees for off-premises consumption, with the exception of mini-bottles as part of cocktail kits. Mini-bottle sales authorized under this subsection as part of cocktail kits are exempt from the spirits license issuance fee under RCW 66.24.630(4)(a) and the tax on each retail sale of spirits under RCW 82.08.150.

(4) Spirits, beer, and wine restaurant licensees may sell wine by the glass or premixed wine and spirits cocktails for takeout or curbside service and for delivery. Beer and wine restaurant licensees may sell wine or premixed wine drinks by the glass for takeout or curbside service and for delivery. The board may establish by rule the manner in which wine by the glass and cocktails for off-premises consumption must be provided.

(5) Licensees that were authorized by statute or rule before January 1, 2020, to sell growlers for on-premises consumption may sell growlers for off-premises consumption through curbside, takeout, or delivery service. Sale of growlers under this subsection must meet federal alcohol and tobacco tax and trade bureau requirements.

(6) Licensees must obtain from the board an endorsement to their license in order to conduct activities authorized under subsections (2) through (5) of this section. The board may adopt rules governing the manner in which the activities authorized under this section must be conducted. Licensees must not be charged a fee in order to obtain an endorsement required under this section.

(7) Beer and wine specialty shops licensed under RCW 66.24.371 and domestic breweries and microbreweries may sell prefilled growlers for off-premises consumption through takeout or curbside service and delivery, provided that prefilled growlers are sold the same day they are prepared for sale and not stored overnight for sale on future days.

(8) The board must adopt or revise current rules to allow for outdoor service of alcohol by on-premises licensees holding licenses issued by the board for the following license types: Beer and wine restaurants; spirits, beer, and wine restaurants; taverns; domestic wineries; domestic breweries and microbreweries; distilleries; snack bars; and private clubs licensed under RCW 66.24.450 and 66.24.452. The board may adopt requirements providing for clear accountability at locations where multiple licensees use a shared space for serving customers.

(9) Upon delivery of any alcohol product authorized to be delivered under this section, the signature of the person age 21 or over receiving the delivery must be obtained.

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

(a) "Board" means the liquor and cannabis board.

(b) "Growlers" means sanitary containers brought to the premises by the purchaser or furnished by the licensee and filled by the retailer at the time of sale.

(c) "Mini-bottles" means original factory-sealed containers holding not more than 50 milliliters of a spirituous beverage.

(11) This section expires July 1, 2023.

NEW SECTION. Sec. 3. A new section is added to chapter 66.08 RCW to read as follows:

The board must consider revising current rules in order to provide greater flexibility regarding food service menu requirements that businesses holding a license issued by the board under Title 66 RCW must provide in conjunction with alcohol sales. This subsection does not apply to licensees that were not required to provide food service under rules in effect on January 1, 2020. The purpose of this subsection is to ease food menu requirements to make it more feasible financially for licensees to comply with the board's food service requirements but not replace food safety requirements in rule adopted by the department of health in chapter 246-215 WAC.

NEW SECTION. Sec. 4. (1) The liquor and cannabis board must contract with an independent entity to conduct a study of the impacts of privileges granted by this act to businesses licensed by the board under Title 66 RCW. The study must examine relevant issues including, but not limited to, the following:

(a) Quantitative measures of impact such as liquor sales data, licensee locations, enforcement activity, hospital and other health provider visits for alcohol-related causes, underage drinking, alcohol dependence treatment, alcohol-related traffic violations, and motor vehicle crash deaths or injuries;

(b) Qualitative investigation of relevant impacts using methods such as key informant interviews and supplemental data collection with licensees, law enforcement, behavioral health service providers, youth prevention and intervention specialists, and revenue stakeholders; and

(c) Additional issues deemed relevant to the goals and results of this act.

(2) The study authorized by this section must be started by January 1, 2022. A report with findings and any recommendations must be provided to the legislature and the governor by December 1, 2022.

(3) This section expires July 1, 2023.

Sec. 5. RCW 66.24.630 and 2020 c 238 s 9 are each amended to read as follows:

(1) There is a spirits retail license to: Sell spirits in original containers to consumers for consumption off the licensed premises and to permit holders; sell spirits in original containers to retailers licensed to sell spirits for consumption on the premises, for resale at their licensed premises according to the terms of their licenses, although no single sale may exceed twenty-four liters, unless the sale is by a licensee that was a contract liquor store manager of a contract liquor store at the location of its spirits retail licensed premises from which it makes such sales; and export spirits.

(2) For the purposes of this title, a spirits retail license is a retail license, and a sale by a spirits retailer is a retail sale only if not for resale. Nothing in this title authorizes sales by on-sale licensees to other retail licensees. The board must establish by rule an obligation of on-sale spirits retailers to:

(a) Maintain a schedule by stock-keeping unit of all their purchases of spirits from spirits retail licensees, including combination spirits, beer, and wine licensees holding a license issued pursuant to RCW 66.24.035, indicating the identity of the seller and the quantities purchased; and

(b) Provide, not more frequently than quarterly, a report for each scheduled item containing the identity of the purchasing on-premises licensee and the quantities of that scheduled item purchased since any preceding report to:

(i) A distributor authorized by the distiller to distribute a scheduled item in the on-sale licensee's geographic area; or

(ii) A distiller acting as distributor of the scheduled item in the area.

(3)(a) Except as otherwise provided in (c) of this subsection, the board may issue spirits retail licenses only for premises comprising at least ten thousand square feet of fully enclosed retail space within a single structure, including storerooms and other interior auxiliary areas but excluding covered or fenced exterior areas, whether or not attached to the structure, and only to applicants that the board determines will maintain systems for inventory management, employee training, employee supervision, and physical security of the product substantially as effective as those of stores currently operated by the board with respect to preventing sales to or pilferage by underage or inebriated persons.

(b) License issuances and renewals are subject to RCW 66.24.010 and the regulations adopted thereunder, including without limitation rights of cities, towns, county legislative authorities, the public, churches, schools, and public institutions to object to or prevent issuance of local liquor licenses. However, existing grocery premises licensed to sell beer and/or wine are deemed to be premises "now licensed" under RCW 66.24.010(9)(a) for the purpose of processing applications for spirits retail licenses.

(c) The board may not deny a spirits retail license to an otherwise qualified contract liquor store at its contract location or to the holder of former state liquor store operating rights sold at auction under RCW 66.24.620 on the grounds of location, nature, or size of the premises to be licensed. The board may not deny a spirits retail license to applicants that are not contract liquor stores or operating rights holders on the grounds of the size of the premises to be licensed, if such applicant is otherwise qualified and the board determines that:

(i) There is no spirits retail license holder in the trade area that the applicant proposes to serve;

(ii) The applicant meets, or upon licensure will meet, the operational requirements established by the board by rule; and

(iii) The licensee has not committed more than one public safety violation within the three years preceding application.

(d) A retailer authorized to sell spirits for consumption on or off the licensed premises may accept delivery of spirits at its licensed premises, at another licensed premises as designated by the retailer, or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which the retailer may deliver to its own

licensed premises and, pursuant to sales permitted under subsection (1) of this section:

(i) To other retailer premises licensed to sell spirits for consumption on the licensed premises;

(ii) To other registered facilities; or

(iii) To lawful purchasers outside the state. The facilities may be registered and utilized by associations, cooperatives, or comparable groups of retailers, including at least one retailer licensed to sell spirits.

(e) For purposes of negotiating volume discounts, a group of individual retailers authorized to sell spirits for consumption off the licensed premises may accept delivery of spirits at their individual licensed premises or at any one of the individual licensee's premises, or at a warehouse facility registered with the board.

(4)(a) Except as otherwise provided in RCW 66.24.632, section 2 of this act, or in (b) of this subsection, each spirits retail licensee must pay to the board, for deposit into the liquor revolving fund, a license issuance fee equivalent to seventeen percent of all spirits sales revenues under the license, exclusive of taxes collected by the licensee and of sales of items on which a license fee payable under this section has otherwise been incurred. The board must establish rules setting forth the timing of such payments and reporting of sales dollar volume by the licensee, with payments required quarterly in arrears. The first payment is due October 1, 2012.

(b) This subsection (4) does not apply to craft distilleries for sales of spirits of the craft distillery's own production.

(5) In addition to the payment required under subsection (4) of this section, each licensee must pay an annual license renewal fee of one hundred sixty-six dollars. The board must periodically review and adjust the renewal fee as may be required to maintain it as comparable to annual license renewal fees for licenses to sell beer and wine not for consumption on the licensed premises. If required by law at the time, any increase of the annual renewal fee becomes effective only upon ratification by the legislature.

(6) As a condition to receiving and renewing a spirits retail license the licensee must provide training as prescribed by the board by rule for individuals who sell spirits or who manage others who sell spirits regarding compliance with laws and regulations regarding sale of spirits, including without limitation the prohibitions against sale of spirits to individuals who are underage or visibly intoxicated. The training must be provided before the individual first engages in the sale of spirits and must be renewed at least every five years. The licensee must maintain records documenting the nature and frequency of the training provided. An employee training program is presumptively sufficient if it incorporates a "responsible vendor program" adopted by the board.

(7) The maximum penalties prescribed by the board in WAC 314-29-020 through 314-29-040 relating to fines and suspensions are doubled for violations relating to the sale of spirits by spirits retail licensees.

(8)(a) The board must adopt regulations concerning the adoption and administration of a compliance training program for spirits retail licensees, to be known as a "responsible vendor program," to reduce underage drinking, encourage licensees to adopt specific best practices to prevent sales to minors,

and provide licensees with an incentive to give their employees ongoing training in responsible alcohol sales and service.

(b) Licensees who join the responsible vendor program under this section and maintain all of the program's requirements are not subject to the doubling of penalties provided in this section for a single violation in any period of twelve calendar months.

(c) The responsible vendor program must be free, voluntary, and self-monitoring.

(d) To participate in the responsible vendor program, licensees must submit an application form to the board. If the application establishes that the licensee meets the qualifications to join the program, the board must send the licensee a membership certificate.

(e) A licensee participating in the responsible vendor program must at a minimum:

- (i) Provide ongoing training to employees;
- (ii) Accept only certain forms of identification for alcohol sales;
- (iii) Adopt policies on alcohol sales and checking identification;
- (iv) Post specific signs in the business; and
- (v) Keep records verifying compliance with the program's requirements.

(f)(i) A spirits retail licensee that also holds a grocery store license under RCW 66.24.360 or a beer and/or wine specialty shop license under RCW 66.24.371 may, upon board approval and pursuant to board rules, transition to a combination spirits, beer, and wine license pursuant to RCW 66.24.035.

(ii) An applicant that would qualify for a spirits retail license under this section and that qualifies for a combination spirits, beer, and wine license pursuant to RCW 66.24.035 may apply for a license pursuant to RCW 66.24.035 instead of applying for a spirits retail license under this section.

Sec. 6. RCW 82.08.150 and 2012 c 2 s 106 are each amended to read as follows:

(1) There is levied and collected a tax upon each retail sale of spirits in the original package at the rate of fifteen percent of the selling price.

(2) There is levied and collected a tax upon each sale of spirits in the original package at the rate of ten percent of the selling price on sales by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to restaurant spirits retailers.

(3) There is levied and collected an additional tax upon each sale of spirits in the original package by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to a restaurant spirits retailer and upon each retail sale of spirits in the original package by a licensee of the board at the rate of one dollar and seventy-two cents per liter.

(4) An additional tax is imposed equal to fourteen percent multiplied by the taxes payable under subsections (1), (2), and (3) of this section.

(5) An additional tax is imposed upon each sale of spirits in the original package by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to a restaurant spirits retailer and upon each retail sale of spirits in the original package by a licensee of the board at the rate of seven cents per liter. All revenues collected during any month from this additional tax must be deposited in the state general fund by the twenty-fifth day of the following month.

(6)(a) An additional tax is imposed upon retail sale of spirits in the original package at the rate of three and four-tenths percent of the selling price.

(b) An additional tax is imposed upon retail sale of spirits in the original package to a restaurant spirits retailer at the rate of two and three-tenths percent of the selling price.

(c) An additional tax is imposed upon each sale of spirits in the original package by a spirits distributor licensee or other licensee acting as a spirits distributor pursuant to Title 66 RCW to a restaurant spirits retailer and upon each retail sale of spirits in the original package by a licensee of the board at the rate of forty-one cents per liter.

(d) All revenues collected during any month from additional taxes under this subsection must be deposited in the state general fund by the twenty-fifth day of the following month.

(7)(a) An additional tax is imposed upon each retail sale of spirits in the original package at the rate of one dollar and thirty-three cents per liter.

(b) All revenues collected during any month from additional taxes under this subsection must be deposited by the twenty-fifth day of the following month into the general fund.

(8) The tax imposed in RCW 82.08.020 does not apply to sales of spirits in the original package.

(9) The taxes imposed in this section must be paid by the buyer to the seller, and each seller must collect from the buyer the full amount of the tax payable in respect to each taxable sale under this section. The taxes required by this section to be collected by the seller must be stated separately from the selling price, and for purposes of determining the tax due from the buyer to the seller, it is conclusively presumed that the selling price quoted in any price list does not include the taxes imposed by this section. Sellers must report and return all taxes imposed in this section in accordance with rules adopted by the department.

(10) ~~((As used in this section))~~ (a) Except as otherwise provided in this subsection, the terms, "spirits" and "package" have the same meaning as provided in chapter 66.04 RCW.

(b) Until July 1, 2023, for the purposes of the taxes imposed under this section, the term "spirits" does not include mini-bottles of spirits sold by a person who possesses a valid endorsement under section 2(6) of this act and is licensed as a spirits, beer, and wine restaurant under RCW 66.24.400.

(c) For the purposes of this subsection, "mini-bottles of spirits" means an original factory-sealed container holding not more than 50 milliliters of spirits.

NEW SECTION. Sec. 7. This act is exempt from the provisions of RCW 82.32.808 and 82.32.805.

NEW SECTION. Sec. 8. Except as provided in section 2(9) of this act, any temporary authorization or relaxation of requirements provided by the Washington state liquor and cannabis board, in effect on the effective date of this section, related to authorizing the photographing or scanning of customer identification in lieu of obtaining a physical signature to document liquor product delivery or verify the age of customers, expires at the end of the governor's proclamation of emergency related to COVID-19.

NEW SECTION. Sec. 9. Any temporary authorization or relaxation of statutory requirements provided by the Washington state liquor and cannabis

board related to food requirements associated with wine and beer sampling at farmers markets expires at the end of the governor's proclamation of emergency related to COVID-19.

NEW SECTION. Sec. 10. 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 February 25, 2021.

Passed by the Senate March 29, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 49

[House Bill 1491]

DEPARTMENT OF NATURAL RESOURCES RIGHT-OF-WAY CERTIFICATES—FEDERAL GOVERNMENT

AN ACT Relating to rights-of-way for the transport of timber, minerals, stone, sand, gravel, or other valuable materials; and amending RCW 79.36.350.

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

Sec. 1. RCW 79.36.350 and 2003 c 334 s 383 are each amended to read as follows:

(1) Any person, firm, or corporation engaged in the business of logging or lumbering, quarrying, mining or removing sand, gravel, or other valuable materials from land, and desirous of obtaining a right-of-way for the purpose of transporting or moving timber, minerals, stone, sand, gravel, or other valuable materials from other lands, over and across any state lands, or tide or shore lands belonging to the state, or any such lands sold or leased by the state since the fifteenth day of June, 1911, shall file with the department upon a form to be furnished for that purpose, a written application for such right-of-way, accompanied by a plat showing the location of the right-of-way applied for with references to the boundaries of the government section in which the lands over and across which such right-of-way is desired are located. (~~Upon~~) Except as provided in subsection (2) of this section, upon the filing of such application and plat, the department shall cause the lands embraced within the right-of-way applied for, to be inspected, and all timber thereon, and all damages to the lands affected which may be caused by the use of such right-of-way, to be appraised, and shall notify the applicant of the appraised value of such timber and such appraisal of damages. (~~Upon~~) Except as provided in subsection (2) of this section, upon the payment to the department of the amount of the appraised value of timber and damages, the department shall issue in duplicate a right-of-way certificate setting forth the terms and conditions upon which such right-of-way is granted, as provided in the preceding sections, and providing that whenever such right-of-way shall cease to be used for the purpose for which it was granted, or shall not be used in accordance with such terms and conditions, it shall be deemed forfeited. One copy of such certificate shall be filed in the office of the department and one copy delivered to the applicant.

(2) The department's obligation to issue a right-of-way certificate as provided in subsection (1) of this section does not apply to an application for a

right-of-way over land in which the federal government claims the exclusive right to grant an easement or right-of-way to third parties over such land. However, this exception does not apply where the department disputes the claim by the federal government. The existence of this section may not be deemed an acknowledgment that the federal government holds any such exclusive granting rights.

Passed by the House February 25, 2021.

Passed by the Senate March 29, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 50

[House Bill 1525]

ENFORCEMENT OF JUDGMENTS—GARNISHMENT PROTECTIONS

AN ACT Relating to enforcement of judgments; amending RCW 6.15.010 and 6.27.100; 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 has previously recognized that garnishees have no responsibility for the situation leading to the garnishment of a debtor's wages, funds, or other property, but that the garnishment process is necessary for the enforcement of obligations. The legislature has further recognized the importance of reducing or offsetting the administrative burden on the garnishee to the extent that that can be accomplished consistent with the goal of effectively enforcing debtors' unpaid obligations. At the same time, debtors must be afforded the exemptions to which they are statutorily entitled and protected from garnishments that violate Washington law.

By establishing automatic exemption amounts and specifying when and how much a garnishee bank is required to hold and release, the legislature intends to ease the burden on garnishees while protecting debtors from situations in which the entirety of their bank accounts are frozen before they have any opportunity to assert certain rightful exemptions.

Sec. 2. RCW 6.15.010 and 2019 c 371 s 3 are each amended to read as follows:

(1) Except as provided in RCW 6.15.050, the following personal property is exempt from execution, attachment, and garnishment:

(a) All wearing apparel of every individual and family, but not to exceed three thousand five hundred dollars in value in furs, jewelry, and personal ornaments for any individual.

(b) All private libraries including electronic media, which includes audiovisual, entertainment, or reference media in digital or analogue format, of every individual, but not to exceed three thousand five hundred dollars in value, and all family pictures and keepsakes.

(c) A cell phone, personal computer, and printer.

(d) To each individual or, as to community property of spouses maintaining a single household as against a creditor of the community, to the community:

(i) The individual's or community's household goods, appliances, furniture, and home and yard equipment, not to exceed six thousand five hundred dollars

in value for the individual or thirteen thousand dollars for the community, no single item to exceed seven hundred fifty dollars, said amount to include provisions and fuel for the comfortable maintenance of the individual or community;

(ii) Other personal property, except personal earnings as provided under RCW 6.15.050(1), not to exceed three thousand dollars in value, of which not more than one thousand five hundred dollars in value may consist of cash, and of which not more than:

(A) For all debts except private student loan debt and consumer debt, five hundred dollars in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. The maximum exemption under this subsection (1)(d)(ii)(A) shall be automatically protected and may not exceed five hundred dollars, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

(B) For all private student loan debt, two thousand five hundred dollars in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. \$1,000 in value shall be automatically protected. The maximum exemption under this subsection (1)(d)(ii)(B) may not exceed two thousand five hundred dollars, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities.

(C) For all consumer debt, two thousand dollars in value may consist of bank accounts, savings and loan accounts, stocks, bonds, or other securities. \$1,000 in value shall be automatically protected. The maximum exemption under this subsection (1)(d)(ii)(C) may not exceed two thousand dollars, regardless of the number of existing separate bank accounts, savings and loan accounts, stocks, bonds, or other securities;

(iii) For an individual, a motor vehicle used for personal transportation, not to exceed three thousand two hundred fifty dollars or for a community two motor vehicles used for personal transportation, not to exceed six thousand five hundred dollars in aggregate value;

(iv) Any past due, current, or future child support paid or owed to the debtor, which can be traced;

(v) All professionally prescribed health aids for the debtor or a dependent of the debtor; and

(vi) To any individual, the right to or proceeds of a payment not to exceed twenty thousand dollars on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent; or the right to or proceeds of a payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor. The exemption under this subsection (1)(d)(vi) does not apply to the right of the state of Washington, or any agent or assignee of the state, as a lienholder or subrogee under RCW 43.20B.060.

(e) To each qualified individual, one of the following exemptions:

(i) To a farmer, farm trucks, farm stock, farm tools, farm equipment, supplies and seed, not to exceed ten thousand dollars in value;

(ii) To a physician, surgeon, attorney, member of the clergy, or other professional person, the individual's library, office furniture, office equipment and supplies, not to exceed ten thousand dollars in value;

(iii) To any other individual, the tools and instruments and materials used to carry on his or her trade for the support of himself or herself or family, not to exceed ten thousand dollars in value.

(f) Tuition units, under chapter 28B.95 RCW, purchased more than two years prior to the date of a bankruptcy filing or court judgment, and contributions to any other qualified tuition program under 26 U.S.C. Sec. 529 of the internal revenue code of 1986, as amended, and to a Coverdell education savings account, also known as an education individual retirement account, under 26 U.S.C. Sec. 530 of the internal revenue code of 1986, as amended, contributed more than two years prior to the date of a bankruptcy filing or court judgment.

(2) For purposes of this section, "value" means the reasonable market value of the debtor's interest in an article or item at the time it is selected for exemption, exclusive of all liens and encumbrances thereon.

Sec. 3. RCW 6.27.100 and 2019 c 371 s 4 are each amended to read as follows:

(1) A writ issued for a continuing lien on earnings shall be substantially in the form provided in RCW 6.27.105. All other writs of garnishment shall be substantially in the following form, but:

(a) If the writ is issued under an order or judgment for child support, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for child support";

(b) If the writ is issued under an order or judgment for private student loan debt, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for private student loan debt";

(c) If the writ is issued under an order or judgment for consumer debt, the following statement shall appear conspicuously in the caption: "This garnishment is based on a judgment or order for consumer debt"; and

(d) If the writ is issued by an attorney, the writ shall be revised as indicated in subsection (2) of this section:

"IN THE COURT
OF THE STATE OF WASHINGTON IN AND FOR
THE COUNTY OF

.....,

Plaintiff,

No.

vs.

.....,

Defendant,

WRIT OF
GARNISHMENT

.....,

Garnishee

THE STATE OF WASHINGTON TO:

Garnishee

AND TO:

Defendant

The above-named plaintiff has applied for a writ of garnishment against you, claiming that the above-named defendant is indebted to plaintiff and that the amount to be held to satisfy that indebtedness is \$, consisting of:

Balance on Judgment or Amount of Claim	\$
Interest under Judgment from to	\$
Per Day Rate of Estimated Interest	\$
	per day
Taxable Costs and Attorneys' Fees	\$
Estimated Garnishment Costs:	
Filing and Ex Parte Fees	\$
Service and Affidavit Fees	\$
Postage and Costs of Certified Mail	\$
Answer Fee or Fees	\$
Garnishment Attorney Fee	\$
Other	\$

YOU ARE HEREBY COMMANDED, unless otherwise directed by the court, by the attorney of record for the plaintiff, or by this writ, not to pay any debt, whether earnings subject to this garnishment or any other debt, owed to the defendant at the time this writ was served and not to deliver, sell, or transfer, or recognize any sale or transfer of, any personal property or effects of the defendant in your possession or control at the time when this writ was served. Any such payment, delivery, sale, or transfer is void to the extent necessary to satisfy the plaintiff's claim and costs for this writ with interest.

YOU ARE FURTHER COMMANDED to answer this writ according to the instructions in this writ and in the answer forms and, within twenty days after the service of the writ upon you, to mail or deliver the original of such answer to the court, one copy to the plaintiff or the plaintiff's attorney, and one copy to the defendant, at the addresses listed at the bottom of this writ.

If you owe the defendant a debt payable in money in excess of the amount set forth in the first paragraph of this writ, hold only the amount set forth in the first paragraph and any processing fee if one is charged and release all additional funds or property to defendant.

FOR ALL DEBTS EXCEPT PRIVATE STUDENT LOAN DEBT AND CONSUMER DEBT:

If you are a bank or other institution in which the defendant has accounts to which the exemption under RCW 6.15.010(1)(d)(ii)(A) applies and the total of the amounts held in all of the defendant's accounts is less than or equal to \$500, release all funds or property to the defendant and do not hold any amount.

If you are a bank or other institution in which the defendant has accounts to which the exemption under RCW 6.15.010(1)(d)(ii)(A) applies and the total of the amounts held in all of the defendant's accounts is in excess of \$500, release at least \$500, hold no more than the amount set forth in the first paragraph of this writ and any processing fee if one is charged, and release additional funds or property, if any, to the defendant.

FOR PRIVATE STUDENT LOAN DEBT AND CONSUMER DEBT:

If you are a bank or other institution in which the defendant has accounts to which the exemption under RCW 6.15.010(1)(d)(ii) (B) or (C) applies and the total of the amounts held in all of the defendant's accounts is less than or equal to \$1,000, release all funds or property to the defendant and do not hold any amount.

If you are a bank or other institution in which the defendant has accounts to which the exemption under RCW 6.15.010(1)(d)(ii) (B) or (C) applies and the total of the amounts held in all of the defendant's accounts is in excess of \$1,000, release at least \$1,000, hold no more than the amount set forth in the first paragraph of this writ and any processing fee if one is charged, and release additional funds or property, if any, to the defendant.

IF YOU FAIL TO ANSWER THIS WRIT AS COMMANDED, A JUDGMENT MAY BE ENTERED AGAINST YOU FOR THE FULL AMOUNT OF THE PLAINTIFF'S CLAIM AGAINST THE DEFENDANT WITH ACCRUING INTEREST, ATTORNEY FEES, AND COSTS WHETHER OR NOT YOU OWE ANYTHING TO THE DEFENDANT. IF YOU PROPERLY ANSWER THIS WRIT, ANY JUDGMENT AGAINST YOU WILL NOT EXCEED THE AMOUNT OF ANY NONEXEMPT DEBT OR THE VALUE OF ANY NONEXEMPT PROPERTY OR EFFECTS IN YOUR POSSESSION OR CONTROL.

JUDGMENT MAY ALSO BE ENTERED AGAINST THE DEFENDANT FOR COSTS AND FEES INCURRED BY THE PLAINTIFF.

Witness, the Honorable, Judge of the above-entitled Court, and the seal thereof, this day of, (year)

[Seal]

.....
Attorney for	Clerk of the
Plaintiff (or	Court
Plaintiff, if no	
attorney)	
.....
Address	By
.....
Name of Defendant	Address"
.....	
Address of Defendant	

(2) If an attorney issues the writ of garnishment, the final paragraph of the writ, containing the date, and the subscripted attorney and clerk provisions, shall be replaced with text in substantially the following form:

"This writ is issued by the undersigned attorney of record for plaintiff under the authority of chapter 6.27 of the Revised Code of Washington, and must be complied with in the same manner as a writ issued by the clerk of the court.

Dated thisday of, (year)

.....

Attorney for Plaintiff

.....

Address

Address of the Clerk of the Court"

.....

Name of Defendant

.....

Address of Defendant

NEW SECTION. **Sec. 4.** This act expires July 1, 2025.

Passed by the House February 26, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 51

[Substitute Senate Bill 5267]

PROPERTY FLIPPING—ELECTRICAL WORK

AN ACT Relating to requiring electrical licensing for electrical work associated with flipping property; and amending RCW 19.28.261 and 19.28.420.

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

Sec. 1. RCW 19.28.261 and 2013 c 23 s 37 are each amended to read as follows:

(1) Nothing in RCW 19.28.161 through 19.28.271 shall be construed to require that a person obtain a license or a certified electrician in order to do electrical work at his or her residence or farm or place of business or on other property owned by him or her unless ~~((the))~~:

(a) The electrical work is on the construction of a new building intended for rent, sale, or lease; or

(b) The electrical work is on property that is offered for sale within 12 months after obtaining the property.

However, if the construction is of a new residential building with up to four units intended for rent, sale, or lease, the owner may receive an exemption from the requirement to obtain a license or use a certified electrician if he or she provides a signed affidavit to the department stating that he or she will be performing the work and will occupy one of the units as his or her principal

residence. The owner shall apply to the department for this exemption and may only receive an exemption once every twenty-four months. It is intended that the owner receiving this exemption shall occupy the unit as his or her principal residence for twenty-four months after completion of the units.

(2) Nothing in RCW 19.28.161 through 19.28.271 shall be intended to derogate from or dispense with the requirements of any valid electrical code enacted by a city or town pursuant to RCW 19.28.010(3), except that no code shall require the holder of a certificate of competency to demonstrate any additional proof of competency or obtain any other license or pay any fee in order to engage in the electrical construction trade.

(3) RCW 19.28.161 through 19.28.271 shall not apply to common carriers subject to Part I of the Interstate Commerce Act, nor to their officers and employees.

(4) Nothing in RCW 19.28.161 through 19.28.271 shall be deemed to apply to the installation or maintenance of telephone, telegraph, radio, or television wires and equipment; nor to any electrical utility or its employees in the installation, repair, and maintenance of electrical wiring, circuits, and equipment by or for the utility, or comprising a part of its plants, lines, or systems.

(5) The licensing provisions of RCW 19.28.161 through 19.28.271 shall not apply to:

(a) Persons making electrical installations on their own property or to regularly employed employees working on the premises of their employer, unless the electrical work is on ~~(the)~~:

(i) The construction of a new building intended for rent, sale, or lease; or

(ii) Property offered for sale within 12 months after obtaining the property;

(b) Employees of an employer while the employer is performing utility type work of the nature described in RCW 19.28.091 so long as such employees have registered in the state of Washington with or graduated from a state-approved outside lineworker apprenticeship course that is recognized by the department and that qualifies a person to perform such work;

(c) Any work exempted under RCW 19.28.091(6); and

(d) Certified plumbers, certified residential plumbers, or plumber trainees meeting the requirements of chapter 18.106 RCW and performing exempt work under RCW 19.28.091(8).

(6) Nothing in RCW 19.28.161 through 19.28.271 shall be construed to restrict the right of any householder to assist or receive assistance from a friend, neighbor, relative, or other person when none of the individuals doing the electrical installation hold themselves out as engaged in the trade or business of electrical installations.

(7) Nothing precludes any person who is exempt from the licensing requirements of this chapter under this section from obtaining a journey level or specialty certificate of competency if they otherwise meet the requirements of this chapter.

Sec. 2. RCW 19.28.420 and 2000 c 238 s 206 are each amended to read as follows:

(1) It is unlawful for any person, firm, partnership, corporation, or other entity to advertise, offer to do work, submit a bid, engage in, conduct, or carry on the business of installing or maintaining telecommunications systems without having a telecommunications contractor license. Electrical contractors licensed

as general electrical (01) or specialty electrical (06) contractors under this chapter ((19.28 RCW)) and their designated administrators qualify to perform all telecommunications work defined in this chapter. Telecommunications contractors licensed under this chapter are not required to be registered under chapter 18.27 RCW. All telecommunications licenses expire twenty-four calendar months following the day of their issue. A telecommunications contractor license is not required for a licensed specialty electrical contractor to perform telecommunications installations or maintenance integral to the equipment or occupancy limitations of their electrical specialty. A telecommunications contractor license is not required for persons making telecommunications installations or performing telecommunications maintenance on their own property or for regularly employed employees working on the premises of their employer, unless on ~~((a))~~:

(a) A new building intended for rent, sale, or lease; or

(b) Property offered for sale within 12 months after obtaining the property.

(2) Application for a telecommunications contractor license shall be made in writing to the department accompanied by the required fee. The applications shall state:

(a) The name and address of the applicant. In the case of firms or partnerships, the applications shall state the names of the individuals composing the firm or partnership. In the case of corporations, the applications shall state the names of the corporation's managing officials;

(b) The location of the place of business of the applicant and the name under which the business is conducted;

(c) The employer social security number or tax identification number;

(d) Evidence of workers' compensation coverage for the applicant's employees working in Washington, as follows:

(i) The applicant's industrial insurance account number issued by the department;

(ii) The applicant's self-insurer number issued by the department; or

(iii) For applicants domiciled in a state or province of Canada subject to an agreement entered into under RCW 51.12.120(7), as permitted by the agreement, filing a certificate of coverage issued by the agency that administers the workers' compensation law in the applicant's state or province of domicile certifying that the applicant has secured the payment of compensation under the other state's or province's workers' compensation law;

(e) The employment security department number; and

(f) The state excise tax registration number.

(3) The unified business identifier account number may be substituted for the information required by subsection (2)(d), (e), and (f) of this section if the applicant will not employ employees in Washington.

(4) The department may verify the workers' compensation coverage information provided by the applicant under subsection (2)(d) of this section including, but not limited to, information regarding the coverage of an individual employee of the applicant. If coverage is provided under the laws of another state, the department may notify the other state that the applicant is employing employees in Washington.

(5) To obtain a telecommunications contractor license the applicant must designate an individual who currently possesses a telecommunications

administrator certificate. To obtain an administrator's certificate an individual must pass an examination as set forth in this chapter. Examination criteria will be determined by the board.

(6) No examination may be required of any applicant for an initial telecommunications administrator certificate qualifying under this section. Applicants qualifying under this section shall be issued an administrator certificate by the department upon making an application and paying the required fee. Individuals must apply before July 1, 2001, to qualify for an administrator certificate without examination under this section. The board shall certify to the department the names of all persons entitled to this administrator certificate.

Prior to July 1, 2001, bona fide registered contractors under chapter 18.27 RCW engaged in the business of installing or maintaining telecommunications wiring in this state on or before June 8, 2000, may designate the following number of persons to receive a telecommunications administrator certificate without examination:

(a) One owner or officer of a contractor, registered under chapter 18.27 RCW on or before June 8, 2000, currently engaged in the business of installing telecommunications wiring;

(b) One employee, principal, or officer, with a minimum of two years experience performing telecommunications installations, per registered ~~((telecommunication[s]))~~ telecommunications contractor; and

(c) One employee for each one hundred employees, or fraction thereof, with a minimum of two years experience performing telecommunications installations.

(7) The application for a contractor license shall be accompanied by a bond in the sum of four thousand dollars with the state of Washington named as obligee in the bond, with good and sufficient surety, to be approved by the department. The bond shall at all times be kept in full force and effect, and any cancellation or revocation thereof, or withdrawal of the surety therefrom, suspends the license issued to the principal until a new bond has been filed and approved as provided in this section. Upon approval of a bond, the department shall, on the next business day, deposit the fee accompanying the application in the electrical license fund and shall file the bond in the office. The department shall, upon request, furnish to any person, firm, partnership, corporation, or other entity a certified copy of the bond upon the payment of a fee that the department shall set by rule. The fee shall cover but not exceed the cost of furnishing the certified copy. The bond shall be conditioned that the principal will pay for all labor, including employee benefits, and material furnished or used upon the work, taxes and contributions to the state of Washington, and all damages that may be sustained by any person, firm, partnership, corporation, or other entity due to a failure of the principal to make the installation or maintenance in accordance with this chapter. In lieu of the surety bond required by this section the applicant may file with the department a cash deposit or other negotiable security acceptable to the department. If the applicant has filed a cash deposit, the department shall deposit the funds in a special trust savings account in a commercial bank, mutual savings bank, or savings and loan association and shall pay annually to the depositor the interest derived from the account.

(8) Any person, firm, or corporation sustaining any damage or injury by reason of the principal's breach of the conditions of the bond required under this section may bring an action against the surety named therein, joining in the action the principal named in the bond; the action shall be brought in the superior court of any county in which the principal on the bond resides or transacts business, or in the county in which the work was performed as a result of which the breach is alleged to have occurred; the action shall be maintained and prosecuted as other civil actions. Claims or actions against the surety on the bond shall be paid in full in the following order of priority: (a) Labor, including employee benefits, (b) materials and equipment used upon such work, (c) taxes and contributions due to the state, (d) damages sustained by any person, firm, or corporation due to the failure of the principal to make the installation in accordance with this chapter, or any ordinance, building code, or regulation applicable thereto. However, the total liability of the surety on any bond may not exceed the sum of four thousand dollars, and the surety on the bond may not be liable for monetary penalties. Any action shall be brought within one year from the completion of the work in the performance of which the breach is alleged to have occurred. The surety shall mail a conformed copy of the judgment against the bond to the department within seven days. In the event that a cash or securities deposit has been made in lieu of the surety bond, and in the event of a judgment being entered against the depositor and deposit, the director shall upon receipt of a certified copy of a final judgment, pay the judgment from the deposit.

(9) The department shall issue a telecommunications contractor license to applicants meeting all of the requirements of this chapter applicable to electrical and telecommunications installations. The provisions of this chapter relating to the licensing of any person, firm, partnership, corporation, or other entity including the requirement of a bond with the state of Washington named as obligee and the collection of a fee for that bond, are exclusive, and no political subdivision of the state of Washington may require or issue any licenses or bonds or charge any fee for the same or a similar purpose.

Passed by the Senate February 25, 2021.

Passed by the House March 28, 2021.

Approved by the Governor April 14, 2021.

Filed in Office of Secretary of State April 15, 2021.

CHAPTER 52

[House Bill 1001]

LAW ENFORCEMENT PROFESSIONAL DEVELOPMENT OUTREACH GRANT PROGRAM

AN ACT Relating to establishing a law enforcement professional development outreach grant program; 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 recognizes that recruiting and retaining law enforcement officers is a significant challenge faced by law enforcement agencies across the state. There are many causes, including salary, high attrition, and generational shifts in the workplace. However, community distrust of law enforcement has also made the profession less desirable for new

and qualified candidates. It is paramount for law enforcement agencies to bridge these gaps with the community to both improve external relations and advance recruitment and retention efforts.

Law enforcement agencies should reflect the demographics of the communities they serve. A dynamic, diverse, community-oriented police force will improve external relations and therefore ensure the effective delivery of services to the public. Therefore, the legislature hereby establishes a grant program for local law enforcement agencies to engage in innovative outreach efforts designed to promote a diverse police force reflective of local communities.

NEW SECTION. Sec. 2. (1) Subject to the availability of amounts appropriated for this specific purpose, the criminal justice training commission shall develop and implement a law enforcement professional development outreach grant program for the purpose of encouraging a broader diversity of candidates from underrepresented groups and communities to seek careers in law enforcement.

(2) Grants must be awarded to local law enforcement agencies based on locally developed proposals. Two or more agencies may submit a joint proposal for a multijurisdictional project. A proposal must include a specific plan for encouraging persons from underrepresented groups and communities to seek careers in law enforcement. The commission shall establish policies for applications under this section in addition to criteria for evaluating and selecting grant recipients. To the extent possible, at least one grant recipient agency should be from the east side of the state and one from the west side of the state, with the crest of the Cascades being the dividing line. No single grant award may exceed sixty thousand dollars. The commission shall select grant recipients and begin distributing funds no later than December 1, 2021.

(3) The commission shall submit a report to the governor and the appropriate committees of the legislature on the grant program no later than December 1, 2022. The report must include a summary of the grant recipients, use of funds, and any potential impact on anticipated recruitment.

(4) This section expires July 1, 2023.

Passed by the House February 10, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 53

[House Bill 1009]

STUDENT HEALTH PLANS—ABORTION

AN ACT Relating to student health plans; and amending RCW 48.43.073.

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

Sec. 1. RCW 48.43.073 and 2018 c 119 s 3 are each amended to read as follows:

(1) Except as provided in subsection (5) of this section, if a health plan issued or renewed on or after January 1, 2019, provides coverage for maternity care or services, the health plan must also provide a covered person with

substantially equivalent coverage to permit the abortion of a pregnancy. Except as provided in subsection (5) of this section, if a student health plan, including student health plans deemed by the insurance commissioner to have a short-term limited purpose or duration or to be guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, issued or renewed on or after January 1, 2022, provides coverage for maternity care or services, the health plan must also provide a covered person with substantially equivalent coverage to permit the abortion of a pregnancy.

(2)(a) Except as provided in (b) of this subsection, a health plan or student health plan subject to subsection (1) of this section may not limit in any way a person's access to services related to the abortion of a pregnancy.

(b)(i) Coverage for the abortion of a pregnancy may be subject to terms and conditions generally applicable to the health plan or student health plan's coverage of maternity care or services, including applicable cost sharing.

(ii) A health plan or student health plan is not required to cover abortions that would be unlawful under RCW 9.02.120.

(3) Nothing in this section may be interpreted to limit in any way an individual's constitutionally or statutorily protected right to voluntarily terminate a pregnancy.

(4) This section does not, pursuant to 42 U.S.C. Sec. 18054(a)(6), apply to a multistate plan that does not provide coverage for the abortion of a pregnancy.

(5) If the application of this section to a health plan or student health plan results in noncompliance with federal requirements that are a prescribed condition to the allocation of federal funds to the state, this section is inapplicable to the plan to the minimum extent necessary for the state to be in compliance. The inapplicability of this section to a specific health plan or student health plan under this subsection does not affect the operation of this section in other circumstances.

Passed by the House February 23, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 54

[House Bill 1023]

CAPITAL PROJECT PREDESIGN—EXCEPTIONS

AN ACT Relating to predesign requirements and thresholds; amending RCW 43.88.110, 43.82.035, and 43.88.0301; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that predesigns are often done due to statutory requirements regardless of whether it is necessary to the capital project. The legislature also finds that the cost of unnecessary predesigns includes not only limited resources in the capital budget, but an extended project timeline. Therefore, the legislature intends to reduce the number of predesigns by raising the cost threshold and adding exceptions to the predesign requirements.

Sec. 2. RCW 43.88.110 and 2014 c 162 s 4 are each amended to read as follows:

This section sets forth the expenditure programs and the allotment and reserve procedures to be followed by the executive branch for public funds.

(1) Allotments of an appropriation for any fiscal period shall conform to the terms, limits, or conditions of the appropriation.

(2) The director of financial management shall provide all agencies with a complete set of operating and capital instructions for preparing a statement of proposed expenditures at least thirty days before the beginning of a fiscal period. The set of instructions need not include specific appropriation amounts for the agency.

(3) Within forty-five days after the beginning of the fiscal period or within forty-five days after the governor signs the omnibus biennial appropriations act, whichever is later, all agencies shall submit to the governor a statement of proposed expenditures at such times and in such form as may be required by the governor.

(4) The office of financial management shall develop a method for monitoring capital appropriations and expenditures that will capture at least the following elements:

(a) Appropriations made for capital projects including transportation projects;

(b) Estimates of total project costs including past, current, ensuing, and future biennial costs;

(c) Comparisons of actual costs to estimated costs;

(d) Comparisons of estimated construction start and completion dates with actual dates;

(e) Documentation of fund shifts between projects.

This data may be incorporated into the existing accounting system or into a separate project management system, as deemed appropriate by the office of financial management.

(5) ~~((The))~~ Except as provided for under subsection (6) of this section, the office of financial management, prior to approving allotments for major capital construction projects valued over ~~((five million dollars, with the exception of projects at institutions of higher education as defined in RCW 28B.10.016, which may be valued up to))~~ ten million dollars, shall institute procedures for reviewing such projects at the predesign stage that will reduce long-term costs and increase facility efficiency. The procedures shall include, but not be limited to, the following elements:

(a) Evaluation of facility program requirements and consistency with long-range plans;

(b) Utilization of a system of cost, quality, and performance standards to compare major capital construction projects; and

(c) A requirement to incorporate value-engineering analysis and constructability review into the project schedule.

(6) The office of financial management may make an exception to some or all of the predesign requirements in subsection (5) of this section. The office of financial management shall report any exception to the fiscal committees of the legislature and include: (a) A description of the major capital project for which the predesign waiver is made; (b) an explanation of the reason for the waiver;

and (c) a rough order of magnitude cost estimate for the project's design and construction.

(7) In deliberations related to submitting an exception under subsection (6) of this section, the office of financial management shall consider the following factors:

(a) Whether there is any determination to be made regarding the site of the project;

(b) Whether there is any determination to be made regarding whether the project will involve renovation, new construction, or both;

(c) Whether, within six years of submitting the request for funding, the agency has completed, or initiated the construction of, a substantially similar project;

(d) Whether there is any anticipated change to the project's program or the services to be delivered at the facility;

(e) Whether the requesting agency indicates that the project may not require some or all of the requirements in subsection (5) of this section due to a lack of complexity; and

(f) Whether any other factors related to project complexity or risk, as determined by the office of financial management, could reduce the need for, or scope of, a predesign.

(8) If under subsection (6) of this section, some or all of the predesign requirements under subsection (5) of this section are waived, the office of financial management may instead propose a professional project cost estimate instead of a request for predesign funding.

(9) No expenditure may be incurred or obligation entered into for such major capital construction projects including, without exception, land acquisition, site development, predesign, design, construction, and equipment acquisition and installation, until the allotment of the funds to be expended has been approved by the office of financial management. This limitation does not prohibit the continuation of expenditures and obligations into the succeeding biennium for projects for which allotments have been approved in the immediate prior biennium.

((7)) (10) If at any time during the fiscal period the governor projects a cash deficit in a particular fund or account as defined by RCW 43.88.050, the governor shall make across-the-board reductions in allotments for that particular fund or account so as to prevent a cash deficit, unless the legislature has directed the liquidation of the cash deficit over one or more fiscal periods. Except for the legislative and judicial branches and other agencies headed by elective officials, the governor shall review the statement of proposed operating expenditures for reasonableness and conformance with legislative intent. The governor may request corrections of proposed allotments submitted by the legislative and judicial branches and agencies headed by elective officials if those proposed allotments contain significant technical errors. Once the governor approves the proposed allotments, further revisions may at the request of the office of financial management or upon the agency's initiative be made on a quarterly basis and must be accompanied by an explanation of the reasons for significant changes. However, changes in appropriation level authorized by the legislature, changes required by across-the-board reductions mandated by the governor, changes caused by executive increases to spending authority, and changes

caused by executive decreases to spending authority for failure to comply with the provisions of chapter 36.70A RCW may require additional revisions. Revisions shall not be made retroactively. However, the governor may assign to a reserve status any portion of an agency appropriation withheld as part of across-the-board reductions made by the governor and any portion of an agency appropriation conditioned on a contingent event by the appropriations act. The governor may remove these amounts from reserve status if the across-the-board reductions are subsequently modified or if the contingent event occurs. The director of financial management shall enter approved statements of proposed expenditures into the state budgeting, accounting, and reporting system within forty-five days after receipt of the proposed statements from the agencies. If an agency or the director of financial management is unable to meet these requirements, the director of financial management shall provide a timely explanation in writing to the legislative fiscal committees.

~~((8))~~ (11) It is expressly provided that all agencies shall be required to maintain accounting records and to report thereon in the manner prescribed in this chapter and under the regulations issued pursuant to this chapter. Within ninety days of the end of the fiscal year, all agencies shall submit to the director of financial management their final adjustments to close their books for the fiscal year. Prior to submitting fiscal data, written or oral, to committees of the legislature, it is the responsibility of the agency submitting the data to reconcile it with the budget and accounting data reported by the agency to the director of financial management.

~~((9))~~ (12) The director of financial management may exempt certain public funds from the allotment controls established under this chapter if it is not practical or necessary to allot the funds. Allotment control exemptions expire at the end of the fiscal biennium for which they are granted. The director of financial management shall report any exemptions granted under this subsection to the legislative fiscal committees.

Sec. 3. RCW 43.82.035 and 2015 c 225 s 75 are each amended to read as follows:

(1) The office of financial management shall design and implement a modified predesign process for any space request to lease, purchase, or build facilities that involve (a) the housing of new state programs, (b) a major expansion of existing state programs, or (c) the relocation of state agency programs. This includes the consolidation of multiple state agency tenants into one facility. The office of financial management shall define facilities that meet the criteria described in (a) and (b) of this subsection.

(2) State agencies shall submit modified predesigns to the office of financial management and the legislature. Modified predesigns must include a problem statement, an analysis of alternatives to address programmatic and space requirements, proposed locations, and a financial assessment. For proposed projects of twenty thousand gross square feet or less, the agency may provide a cost-benefit analysis, rather than a life-cycle cost analysis, as determined by the office of financial management.

(3) Projects that meet the capital requirements for predesign on major facility projects with an estimated project cost of ~~((five))~~ 10 million dollars or more pursuant to chapter 43.88 RCW shall not be required to prepare a modified predesign.

(4) The office of financial management shall require state agencies to identify plans for major leased facilities as part of the ten-year capital budget plan. State agencies shall not enter into new or renewed leases of more than one million dollars per year unless such leases have been approved by the office of financial management except when the need for the lease is due to an unanticipated emergency. The regular termination date on an existing lease does not constitute an emergency. The department of enterprise services shall notify the office of financial management and the appropriate legislative fiscal committees if an emergency situation arises.

(5) For project proposals in which there are estimates of operational savings, the office of financial management shall require the agency or agencies involved to provide details including but not limited to fund sources and timelines.

Sec. 4. RCW 43.88.0301 and 2017 3rd sp.s. c 25 s 2 are each amended to read as follows:

(1) The office of financial management must include in its capital budget instructions, beginning with its instructions for the 2003-05 capital budget, a request for "yes" or "no" answers for the following additional informational questions from capital budget applicants for all proposed major capital construction projects valued over (~~five~~) 10 million dollars and required to complete a predesign:

(a) For proposed capital projects identified in this subsection that are located in or serving city or county planning under RCW 36.70A.040:

(i) Whether the proposed capital project is identified in the host city or county comprehensive plan, including the capital facility plan, and implementing rules adopted under chapter 36.70A RCW;

(ii) Whether the proposed capital project is located within an adopted urban growth area:

(A) If at all located within an adopted urban growth area boundary, whether a project facilitates, accommodates, or attracts planned population and employment growth;

(B) If at all located outside an urban growth area boundary, whether the proposed capital project may create pressures for additional development;

(b) For proposed capital projects identified in this subsection that are requesting state funding:

(i) Whether there was regional coordination during project development;

(ii) Whether local and additional funds were leveraged;

(iii) Whether environmental outcomes and the reduction of adverse environmental impacts were examined.

(2) For projects subject to subsection (1) of this section, the office of financial management shall request the required information be provided during the predesign process of major capital construction projects to reduce long-term costs and increase process efficiency.

(3) The office of financial management, in fulfilling its duties under RCW 43.88.030(~~(5))~~ (6) to create a capital budget document, must take into account information gathered under subsections (1) and (2) of this section in an effort to promote state capital facility expenditures that minimize unplanned or uncoordinated infrastructure and development costs, support economic and quality of life benefits for existing communities, and support local government planning efforts.

(4) The office of community development must provide staff support to the office of financial management and affected capital budget applicants to help collect data required by subsections (1) and (2) of this section.

Passed by the House February 26, 2021.

Passed by the Senate April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 55

[House Bill 1031]

CERTIFICATES OF BIRTH RESULTING IN STILLBIRTH

AN ACT Relating to the government issuance of a certificate of birth resulting in stillbirth; amending RCW 70.58A.530; creating a new section; and providing an effective date.

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

NEW SECTION. Sec. 1. (1) The legislature recognizes that a principal duty of governments is to promote and protect the health and safety of their residents. In addition to providing essential health and safety functions through fire and law enforcement agencies, local governments support public health and safety in the collection and maintenance of vital statistics through a single comprehensive vital records system that is operated and maintained by the department of health, and through the issuance of official certifications associated with births and deaths.

(2) The legislature further recognizes that the ability to obtain a certification of birth resulting in stillbirth may provide comfort to some who have experienced the trauma of a stillbirth.

(3) In recognition of the foregoing, the legislature intends to create a new process allowing any person who gives birth to a stillborn fetus to request and receive a certification of birth resulting in stillbirth from the applicable state or local registrar.

(4) The legislature furthermore recognizes that a woman's rights to reproductive freedom and equal protection under the law are rights protected through Washington's statutes, judicial decisions, and the state and federal Constitutions. Nothing in this legislation shall alter a woman's rights to reproductive freedom and equal protection under the law.

Sec. 2. RCW 70.58A.530 and 2019 c 148 s 21 are each amended to read as follows:

(1)(a) A certification issued in accordance with this section is considered for all purposes the same as the original vital record and is prima facie evidence of the facts stated therein.

(b) An informational copy is not considered the same as the original vital record and does not serve as prima facie evidence of the facts stated therein.

(2) The state and local registrar shall issue all certifications registered in the vital records system from the state's central vital records system database upon submission by a qualified applicant of all required information and documentation required either by this chapter or by rule, or both, and shall ensure that all certifications include:

(a) The date of registration; and

(b) Security features that deter altering, counterfeiting, or simulation without ready detection as required under this chapter.

(3) A person requesting a certification of birth, death, ~~((or))~~ fetal death, or birth resulting in stillbirth must submit an application, identity documentation, evidence of eligibility, and the applicable fee established in RCW 70.58A.560 to the state or local registrar.

(4) For a certification of birth, the state or local registrar may release the certification only to:

(a) The subject of the record or the subject of the record's spouse or domestic partner, child, parent, stepparent, stepchild, sibling, grandparent, great grandparent, grandchild, legal guardian, legal representative, or authorized representative; or

(b) A government agency or court, if the certification will be used in the conduct of the agency's or court's official duties.

(5) The state registrar may issue an heirloom certification of birth to a qualified applicant consistent with subsection (4) of this section. The heirloom certification of birth must contain the state seal and be signed by the governor.

(6) The state registrar may issue a certification of a birth record registered as delayed under RCW 70.58A.120 or 70.58A.130 to a qualified applicant consistent with subsection (4) of this section. The certification must:

(a) Be marked as delayed; and

(b) Include a description of the evidence or court order number used to establish the delayed record.

(7) The state registrar may issue a certification of a birth record for a person adopted under chapter 26.33 RCW and registered under RCW 70.58A.400 to a qualified applicant consistent with subsection (4) of this section. The certification:

(a) Must not include reference to the adoption of the child; and

(b) For children born outside of the state, must be issued consistent with the certification standards of this section, unless the court orders otherwise.

(8) When providing a birth certification to a qualified applicant under this chapter, the state or local registrar shall include information prepared by the department setting forth the advisability of a security freeze under RCW 19.182.230 and the process for acquiring a security freeze.

(9) For a certification of death, the state or local registrar may release the certification only to:

(a) The decedent's spouse or domestic partner, child, parent, stepparent, stepchild, sibling, grandparent, great grandparent, grandchild, legal guardian immediately prior to death, legal representative, authorized representative, or next of kin as specified in RCW 11.28.120;

(b) A funeral director, the funeral establishment licensed pursuant to chapter 18.39 RCW, or the person having the right to control the disposition of the human remains under RCW 68.50.160 named on the death record, within twelve months of the date of death; or

(c) A government agency or court, if the certification will be used in the conduct of the agency's or court's official duties.

(10) The state or local registrar may issue a short form certification of death that does not display information relating to cause and manner of death to a qualified applicant. In addition to the qualified applicants listed in subsection (9)

of this section, a qualified applicant for a short form certification of death includes:

(a) A title insurer or title insurance agent handling a transaction involving real property in which the decedent held some right, title, or interest; or

(b) A person that demonstrates that the certified copy is necessary for a determination related to the death or the protection of a personal or property right related to the death.

~~(10)~~ (11) The state or local registrar may issue reports of fetal death either as a certification of a fetal death or as a certification of birth resulting in a stillbirth, or both.

(12) When issuing a certification of fetal death, the state or local registrar may release the certification only to:

(a) A parent, a parent's legal representative, an authorized representative, a sibling, or a grandparent;

(b) The funeral director or funeral establishment licensed pursuant to chapter 18.39 RCW and named on the fetal death record, within twelve months of the date of fetal death; or

(c) A government agency or court, if the certification will be used in the conduct of the agency's or court's official duties.

(13) When issuing a certification of birth resulting in stillbirth, the state or local registrar may release the certification only to the individual who gave birth listed on the fetal death record.

(a) A certification of birth resulting in stillbirth must comply with the format requirements prescribed by the state registrar and be in a format similar to a certification of birth.

(b) The certification of birth resulting in stillbirth must contain a title at the top of the certification that reads: "This certificate of birth resulting in stillbirth is not proof of a live birth and is not an identity document."

(c) Nothing in this subsection (13):

(i) May be the basis for a civil cause of action seeking damages or criminal charges against any person or entity for bodily injury, personal injury, or wrongful death for a stillbirth;

(ii) Shall alter a woman's rights to reproductive freedom or equal protection under the law, or to alter or supersede any other provision of law; and

(iii) Except for the right to request a certification of birth resulting in stillbirth, may constitute the basis of any new right, privilege, or entitlement, or abrogate any existing right, privilege, or entitlement.

~~((12))~~ (14) The state or local registrar shall review the identity documentation and evidence of eligibility to determine if the person requesting the certification is a qualified applicant under this section. The state or local registrar may verify the identity documents and evidence of eligibility to determine the acceptability and authenticity of identity documentation and evidence of eligibility.

~~((13))~~ (15) The state or local registrar may not issue a certification of birth or fetal death, including a certification of birth resulting in stillbirth, that includes information from the confidential section of ~~(the birth or fetal death)~~ record, except as provided in subsection ~~((14))~~ (16) of this section.

~~((14))~~ (16) The state registrar may release information contained in the confidential section of the birth record only to the following persons:

(a) The individual who is the subject of the birth record, upon confirmation of documentation and evidence of identity of the requestor in a manner approved by the state board of health and the department. The state registrar must limit the confidential information provided to the individual who is the subject of the birth record's information, and may not include the parent's confidential information; or

(b) A member of the public, upon order of a court of competent jurisdiction.

~~((15))~~ (17) A person requesting a certification of marriage, dissolution of marriage, or dissolution of domestic partnership currently held by the department must submit an application and the applicable fee established in RCW 70.58A.560 to the state registrar.

~~((16))~~ (18) The state registrar may mark deceased on a birth certification when that birth record is matched to a death record under RCW 70.58A.060.

~~((17))~~ (19) The state or local registrar must issue an informational copy from the central vital records system to anyone. Informational copies must contain only the information allowed by rule. Informational copies of death records must not display information related to cause and manner of death.

~~((18))~~ (20) A person requesting an informational copy must submit an application and the applicable fee established in RCW 70.58A.560 to the state or local registrar.

~~((19))~~ (21) If no record is identified as matching the information provided in the application, the state or local registrar shall issue a document indicating that a search of the vital records system was made and no matching record was identified.

~~((20))~~ (22) All government agencies or courts to whom certifications or informational copies are issued must pay the applicable fee for certifications established in RCW 70.58A.560.

~~((21))~~ (23) The state or local registrar must comply with the requirements of this chapter when issuing a certification or informational copy of a vital life event.

~~((22))~~ (24) The department may issue, through electronic means and processes determined by the department, verifications of information contained on birth or death records filed with the department when a verification is requested by a government agency, insurance company, hospital, or any other organization in the conduct of its official duties for fraud prevention and good governance purposes as determined by the department. The department shall charge a fee for a search under this subsection.

~~((23))~~ (25) For the purposes of this section~~((a))~~:

(a) "~~((qualified))~~ Qualified applicant" means a person who is eligible to receive a certification of a vital record based on the standards established by this chapter and department rule.

(b) "Stillbirth" means the same as fetal death as defined in RCW 70.58A.010.

NEW SECTION. Sec. 3. Section 2 of this act takes effect October 1, 2022.

Passed by the House February 25, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 56

[Second Substitute House Bill 1061]

FOSTER YOUTH WITH DEVELOPMENTAL DISABILITIES—DISCHARGE

AN ACT Relating to youth eligible for developmental disability services who are expected to exit the child welfare system; amending RCW 74.13.341; adding a new section to chapter 74.13 RCW; adding a new section to chapter 71A.12 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature intends that this act help reduce the number of former foster youth with developmental disabilities discharged into homelessness or inappropriately placed in hospitals. The legislature further intends that the steps taken under this act maximize the use of the most cost-effective services for former foster youth with developmental disabilities.

NEW SECTION. Sec. 2. A new section is added to chapter 74.13 RCW to read as follows:

(1) The department shall collaborate with the developmental disabilities administration of the department of social and health services to determine the number of enrolled clients of the developmental disabilities administration of the department of social and health services ages 16 through 21 years old who are functionally eligible for medicaid waiver services, who are also defined as dependent children under chapter 13.34 RCW, and who may exit dependency proceedings under chapter 13.34 RCW after reaching the maximum age for dependent children.

(2) By November 15th, and in compliance with RCW 43.01.036, the department shall submit an annual report to the appropriate committees of the legislature that provides the number of children and youth identified under subsection (1) of this section and other relevant information related to best serving these youth.

Sec. 3. RCW 74.13.341 and 2018 c 58 s 49 are each amended to read as follows:

(1) With respect to ((youth who will be aging out of foster care)) children who are subject to an open dependency proceeding under chapter 13.34 RCW and may exit dependency proceedings under chapter 13.34 RCW after reaching the maximum age for dependent children, the department shall invite representatives from the entity providing managed health and behavioral health care for foster youth required under RCW 74.09.860, and the department of social and health services ((division of)) behavioral health ((and recovery)) administration, the ((disability services)) developmental disabilities administration, the division of vocational rehabilitation, and the economic services administration((, and the juvenile justice and rehabilitation administration)) to the youth's shared planning meeting that occurs between the age ((seventeen)) of 17 and ((seventeen and one-half)) 17.5 that is used to develop a transition plan. It is the responsibility of the department to include these agencies in the shared planning meeting.

(2) For youth who are subject to an open dependency proceeding under chapter 13.34 RCW and the department caseworker believes may be eligible for services administered by the developmental disabilities administration, the

department shall convene a shared planning meeting that includes representatives from the developmental disabilities administration and the division of vocational rehabilitation when the youth is between the ages of 16 and 16.5. This meeting must be used to begin planning services for the youth in advance of the youth's transition to adulthood. The shared planning meeting required under this subsection may include:

(a) Assessing functional eligibility for developmental disability waiver services;

(b) Understanding the services that the youth wants or needs upon the youth's exit from a dependency under chapter 13.34 RCW;

(c) Advanced planning for residential services provided by the developmental disabilities administration of the department of social and health services;

(d) Advanced planning for housing options available from entities other than the developmental disabilities administration of the department of social and health services the youth wants or needs upon the youth's exit from a dependency under chapter 13.34 RCW; and

(e) Development of an action plan so that the services the youth wants or needs will be provided following the youth's exit from dependency proceedings under chapter 13.34 RCW.

(3) If ((foster youth)) children who are subject to an open dependency proceeding under chapter 13.34 RCW and who are the subject of ((this)) either shared planning meeting described under this section may qualify for services provided by the developmental ((disability services)) disabilities administration pursuant to Title 71A RCW, the department shall direct these youth to apply for these services and provide assistance in the application process.

NEW SECTION. Sec. 4. A new section is added to chapter 71A.12 RCW to read as follows:

When there is funded capacity for services provided through a medicaid waiver administered by the department, and to the extent consistent with federal law and federal funding requirements, priority for that waiver shall be provided to eligible individuals who exited a dependency proceeding under chapter 13.34 RCW within the last two years.

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, 2021, in the omnibus appropriations act, this act is null and void.

Passed by the House February 26, 2021.

Passed by the Senate April 7, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 57

[House Bill 1063]

BEHAVIORAL HEALTH PROFESSIONAL TRAINEES AND ASSOCIATES—CREDENTIAL RENEWAL LIMITS

AN ACT Relating to allowing additional renewals for behavioral health professional trainee and associate credentials; amending RCW 18.205.095 and 18.225.145; and declaring an emergency.

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

Sec. 1. RCW 18.205.095 and 2019 c 444 s 6 are each amended to read as follows:

(1) The secretary shall issue a trainee certificate to any applicant who demonstrates to the satisfaction of the secretary that he or she is working toward the education and experience requirements in RCW 18.205.090.

(2) A trainee certified under this section shall submit to the secretary for approval a declaration, in accordance with rules adopted by the department, that he or she is enrolled in an approved education program and actively pursuing the experience requirements in RCW 18.205.090. This declaration must be updated with the trainee's annual renewal.

(3) A trainee certified under this section may practice only under the supervision of a certified substance use disorder professional. The first ~~((fifty))~~ 50 hours of any face-to-face client contact must be under direct observation. All remaining experience must be under supervision in accordance with rules adopted by the department.

(4) A certified substance use disorder professional trainee provides substance use disorder assessments, counseling, and case management with a state regulated agency and can provide clinical services to patients consistent with his or her education, training, and experience as approved by his or her supervisor.

(5) A trainee certification may only be renewed four times, unless the secretary finds that a waiver to allow additional renewals is justified due to barriers to testing or training resulting from a governor-declared emergency.

(6) Applicants are subject to denial of a certificate or issuance of a conditional certificate for the reasons set forth in chapter 18.130 RCW.

(7) ~~((As of July 28, 2019, a))~~ A person certified under this chapter holding the title of chemical dependency professional trainee is considered to hold the title of substance use disorder professional trainee until such time as the person's present certification expires or is renewed.

Sec. 2. RCW 18.225.145 and 2013 c 73 s 4 are each amended to read as follows:

(1) The secretary shall issue an associate license to any applicant who demonstrates to the satisfaction of the secretary that the applicant meets the following requirements for the applicant's practice area and submits a declaration that the applicant is working toward full licensure in that category:

(a) Licensed social worker associate—advanced or licensed social worker associate—independent clinical: Graduation from a master's degree or doctoral degree educational program in social work accredited by the council on social work education and approved by the secretary based upon nationally recognized standards.

(b) Licensed mental health counselor associate: Graduation from a master's degree or doctoral degree educational program in mental health counseling or a related discipline from a college or university approved by the secretary based upon nationally recognized standards.

(c) Licensed marriage and family therapist associate: Graduation from a master's degree or doctoral degree educational program in marriage and family therapy or graduation from an educational program in an allied field equivalent

to a master's degree or doctoral degree in marriage and family therapy approved by the secretary based upon nationally recognized standards.

(2) Associates may not provide independent social work, mental health counseling, or marriage and family therapy for a fee, monetary or otherwise. Associates must work under the supervision of an approved supervisor.

(3) Associates shall provide each client or patient, during the first professional contact, with a disclosure form according to RCW 18.225.100, disclosing that he or she is an associate under the supervision of an approved supervisor.

(4) The department shall adopt by rule what constitutes adequate proof of compliance with the requirements of this section.

(5) Applicants are subject to the denial of a license or issuance of a conditional license for the reasons set forth in chapter 18.130 RCW.

(6) ~~((A))~~ (a) Except as provided in (b) of this subsection, an associate license may be renewed no more than six times, provided that the applicant for renewal has successfully completed eighteen hours of continuing education in the preceding year. Beginning with the second renewal, at least six of the continuing education hours in the preceding two years must be in professional ethics.

(b) If the secretary finds that a waiver to allow additional renewals is justified due to barriers to testing or training resulting from a governor-declared emergency, additional renewals may be approved.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House January 29, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 58

[House Bill 1072]

CIVIL LEGAL AID FUNDS—INDIVIDUALS IN UNITED STATES WITHOUT LEGAL AUTHORITY

AN ACT Relating to removing only one of the restrictions on the use of civil legal aid funds; and amending RCW 2.53.030.

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

Sec. 1. RCW 2.53.030 and 2018 c 21 s 2 are each amended to read as follows:

(1)(a) The legislature recognizes the ethical obligation of attorneys to represent clients without interference by third parties in the discharge of professional obligations to clients. The legislature further finds that the prevalence of civil legal problems experienced by low-income people in Washington state exceeds the capacity of the state-funded legal aid system to address. To ensure the most beneficial use of state resources, the legislature finds it appropriate to authorize legal assistance with respect to civil legal problems that directly affect important rights and basic needs of individual low-income

residents and their families and to define certain limits on the use of state moneys appropriated for civil legal aid. Accordingly, moneys appropriated for civil legal aid pursuant to this section shall not be used for legal representation that is either outside the scope of or prohibited by this section.

(b) Nothing in this section is intended to limit the authority of existing entities, including but not limited to the Washington state bar association, the public disclosure commission, the state auditor, and the federal legal services corporation to resolve issues within their respective jurisdictions.

(2) Any money appropriated by the legislature for civil legal aid to indigent persons pursuant to this section shall be administered by the office of civil legal aid established under RCW 2.53.020, and shall be used solely for the purpose of contracting with qualified legal aid programs for legal representation of indigent persons in matters relating to: (a) Domestic relations and family law matters, (b) governmental assistance and services, (c) health care, (d) housing and utilities, (e) mortgage foreclosures, (f) consumer, financial services, credit, and bankruptcy, (g) employment, (h) rights of residents of long-term care facilities, (i) wills, estates, and living wills, (j) elder abuse, (k) guardianship, (l) disability rights, (m) education including special education, (n) administrative agency decisions, and (o) discrimination prohibited by local, state, or federal law.

(3) For purposes of this section, a "qualified legal aid program" means a not-for-profit corporation incorporated and operating exclusively in Washington which has received basic field funding for the provision of civil legal aid to indigents from the federal legal services corporation or that has received funding for civil legal aid for indigents under this section before July 1, 1997.

(4) When entering into a contract with a qualified legal aid provider under this section, the office of civil legal aid shall require the provider to provide legal aid in a manner that maximizes geographic access throughout the state and meets generally accepted standards for the delivery of civil legal aid.

(5) Funds distributed to qualified legal aid programs under this section may not be used directly or indirectly for:

(a) Lobbying.

(i) For purposes of this section, "lobbying" means any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device directly or indirectly intended to influence any member of congress or any other federal, state, or local nonjudicial official, whether elected or appointed:

(A) In connection with any act, bill, resolution, or similar legislation by the congress of the United States or by any state or local legislative body, or any administrative rule, rule-making activity, standard, rate, or other enactment by any federal, state, or local administrative agency;

(B) In connection with any referendum, initiative, constitutional amendment, or any similar procedure of the congress, any state legislature, any local council, or any similar governing body acting in a legislative capacity; or

(C) In connection with inclusion of any provision in a legislative measure appropriating funds to, or defining or limiting the functions or authority of, the recipient of funds under this section.

(ii) "Lobbying" does not include the response of an employee of a legal aid program to a written request from a governmental agency, an elected or appointed official, or committee on a specific matter. This exception does not

authorize communication with anyone other than the requesting party, or agent or employee of such agency, official, or committee.

(b) Grass roots lobbying. For purposes of this section, "grass roots lobbying" means preparation, production, or dissemination of information the purpose of which is to encourage the public at large, or any definable segment thereof, to contact legislators or their staff in support of or in opposition to pending or proposed legislation; or contribute to or participate in a demonstration, march, rally, lobbying campaign, or letter writing or telephone campaign for the purpose of influencing the course of pending or proposed legislation.

(c) Class action lawsuits.

(d) Participating in or identifying the program with prohibited political activities. For purposes of this section, "prohibited political activities" means (i) any activity directed toward the success or failure of a political party, a candidate for partisan or nonpartisan office, a partisan political group, or a ballot measure; (ii) advertising or contributing or soliciting financial support for or against any candidate, political group, or ballot measure; or (iii) voter registration or transportation activities.

(e) Representation in fee-generating cases. For purposes of this section, "fee-generating" means a case that might reasonably be expected to result in a fee for legal aid if undertaken by a private attorney. The charging of a fee pursuant to subsection (6) of this section does not establish the fee-generating nature of a case.

A fee-generating case may be accepted when: (i) The case has been rejected by the local lawyer referral services or by two private attorneys; (ii) neither the referral service nor two private attorneys will consider the case without payment of a consultation fee; (iii) after consultation with the appropriate representatives of the private bar, the program has determined that the type of case is one that private attorneys do not ordinarily accept, or do not accept without prepayment of a fee; or (iv) the director of the program or the director's designee has determined that referral of the case to the private bar is not possible because documented attempts to refer similar cases in the past have been futile, or because emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(f) Organizing any association, union, or federation, or representing a labor union. However, nothing in this subsection (5)(f) prohibits the provision of legal aid to clients as otherwise permitted by this section.

~~(g) ((Representation of individuals who are in the United States without legal authority.~~

~~(h)))~~ Picketing, demonstrations, strikes, or boycotts.

~~((+))~~ (h) Engaging in inappropriate solicitation. For purposes of this section, "inappropriate solicitation" means promoting the assertion of specific legal claims among persons who know of their rights to make a claim and who decline to do so. Nothing in this subsection precludes a legal aid program or its employees from providing information regarding legal rights and responsibilities or providing information regarding the program's services and intake procedures through community legal education activities, responding to an individual's specific question about whether the individual should consult with an attorney or

take legal action, or responding to an individual's specific request for information about the individual's legal rights or request for assistance in connection with a specific legal problem.

~~((f))~~ (i) Conducting training programs that: (i) Advocate particular public policies; (ii) encourage or facilitate political activities, labor or antilabor activities, boycotts, picketing, strikes, or demonstrations; or (iii) attempt to influence legislation or rule making. Nothing in this subsection (5)~~((f))~~ (i) precludes representation of clients as otherwise permitted by this section.

(6) The office of civil legal aid may establish requirements for client participation in the provision of civil legal aid under this section, including but not limited to copayments and sliding fee scales.

(7)(a) Contracts entered into by the office of civil legal aid with qualified legal aid programs under this section must specify that the program's expenditures of moneys distributed under this section:

(i) Must be audited annually by an independent outside auditor. These audit results must be provided to the office of civil legal aid; and

(ii) Are subject to audit by the state auditor.

(b)(i) Any entity auditing a legal aid program under this section shall have access to all records of the legal aid program to the full extent necessary to determine compliance with this section, with the exception of confidential information protected by the United States Constitution, the state Constitution, the attorney-client privilege, and applicable rules of attorney conduct.

(ii) The legal aid program shall have a system allowing for production of case-specific information, including client eligibility and case type, to demonstrate compliance with this section, with the exception of confidential information protected by the United States Constitution, the state Constitution, the attorney-client privilege, and applicable rules of attorney conduct. Such information shall be available to any entity that audits the program.

(8) The office of civil legal aid must recover or withhold amounts determined by an audit to have been used in violation of this section.

(9) The office of civil legal aid may adopt rules to implement this section.

Passed by the House February 12, 2021.

Passed by the Senate April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 59

[House Bill 1087]

EMPLOYEE FAMILY AND MEDICAL LEAVE RIGHTS—CONTINUITY

AN ACT Relating to clarifying the continuity of employee family and medical leave rights; adding a new section to chapter 50A.05 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) Since enacted in 1989, chapter 49.78 RCW afforded employees the right to unpaid family and medical leave, to return to their jobs afterwards, and to enforce those rights. In 2017, the legislature passed Substitute Senate Bill No. 5975, creating the paid family and medical leave act to replace and enhance the existing unpaid family and medical leave laws.

(2) The passage of the paid family and medical leave act repealed chapter 49.78 RCW and replaced its provisions as a new title in Title 50A RCW. However, the passage of the paid family and medical leave act did not, and was not intended to, undermine any right, liability, or obligation existing under chapter 49.78 RCW prior to its repeal, or under any rule or order adopted under those statutes. Likewise, the passage of the paid family and medical leave act was not intended to affect any proceeding that had been, or could be, brought under the existing chapter 49.78 RCW relating to conduct, acts, or omissions occurring on or before December 31, 2019. To the contrary, the legislature incorporated the employment protections provisions of chapter 49.78 RCW wholesale into the new Title 50A RCW. Moreover, the legislature specifically delayed the effective date of the repeal of chapter 49.78 RCW by over two years after the effective date of the rest of the act, in part, in order to ensure that there would be continuity in the protections provided and rights available under chapter 49.78 RCW and its successor provisions in Title 50A RCW.

(3) The legislature intends to clarify that the passage of the paid family and medical leave act did not sever, impair, extinguish, or in any way affect the rights, liabilities, or obligations under chapter 49.78 RCW as it existed prior to January 1, 2020. A cause of action for conduct, acts, or omissions occurring on or before December 31, 2019, under chapter 49.78 RCW remains available within its applicable statute of limitations.

NEW SECTION. Sec. 2. A new section is added to chapter 50A.05 RCW to read as follows:

(1) The provisions of chapter 49.78 RCW as they existed prior to January 1, 2020, apply to employee and employer conduct, acts, or omissions occurring on or before December 31, 2019, including but not limited to the enforcement provisions set forth in RCW 49.78.330 as they existed prior to January 1, 2020. Accordingly, a cause of action for conduct, acts, or omissions occurring on or before December 31, 2019, under chapter 49.78 RCW remains available within its applicable statute of limitations. As an exercise of the state's police powers and for remedial purposes, this subsection applies retroactively to claims based on conduct, acts, or omissions that occurred on or before December 31, 2019.

(2) The provisions of this title apply to employee and employer conduct, acts, or omissions occurring on or after January 1, 2020, including but not limited to the enforcement provisions set forth in RCW 50A.40.040.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House February 3, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 60

[House Bill 1096]

WASHINGTON STATE HEALTH INSURANCE POOL—NONMEDICARE PLANS—
EXPIRATION

AN ACT Relating to nonmedicare plans offered through the Washington state health insurance pool; and amending RCW 48.41.100 and 48.41.160.

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

Sec. 1. RCW 48.41.100 and 2017 c 110 s 2 are each amended to read as follows:

(1)(a) The following persons who are residents of this state are eligible for pool coverage:

(i) Any resident of the state not eligible for medicare coverage or medicaid coverage, and residing in a county where an individual health plan other than a catastrophic health plan as defined in RCW 48.43.005 is not offered to the resident during defined open enrollment or special enrollment periods at the time of application to the pool, whether through the health benefit exchange operated pursuant to chapter 43.71 RCW or in the private insurance market (~~(, and who makes application to the pool for coverage prior to December 31, 2022)~~);

(ii) Any resident of the state not eligible for medicare coverage, enrolled in the pool prior to December 31, 2013, shall remain eligible for pool coverage except as provided in subsections (2) and (3) of this section (~~(through December 31, 2022)~~);

(iii) Any person becoming eligible for medicare before August 1, 2009, who provides evidence of (A) a rejection for medical reasons, (B) a requirement of restrictive riders, (C) an up-rated premium, (D) a preexisting conditions limitation, or (E) lack of access to or for a comprehensive medicare supplemental insurance policy under chapter 48.66 RCW, the effect of any of which is to substantially reduce coverage from that received by a person considered a standard risk by at least one member within six months of the date of application; and

(iv) Any person becoming eligible for medicare on or after August 1, 2009, who does not have access to a reasonable choice of comprehensive medicare part C plans, as defined in (b) of this subsection, and who provides evidence of (A) a rejection for medical reasons, (B) a requirement of restrictive riders, (C) an up-rated premium, (D) a preexisting conditions limitation, or (E) lack of access to or for a comprehensive medicare supplemental insurance policy under chapter 48.66 RCW, the effect of any of which is to substantially reduce coverage from that received by a person considered a standard risk by at least one member within six months of the date of application.

(b) For purposes of (a)(i) of this subsection, by December 1, 2013, the board shall develop and implement a process to determine an applicant's eligibility based on the criteria specified in (a)(i) of this subsection.

(c) For purposes of (a)(iv) of this subsection (1), a person does not have access to a reasonable choice of plans unless the person has a choice of health maintenance organization or preferred provider organization medicare part C plans offered by at least three different carriers that have had provider networks in the person's county of residence for at least five years. The plan options must include coverage at least as comprehensive as a plan F medicare supplement

plan combined with medicare parts A and B. The plan options must also provide access to adequate and stable provider networks that make up-to-date provider directories easily accessible on the carrier web site, and will provide them in hard copy, if requested. In addition, if no health maintenance organization or preferred provider organization plan includes the health care provider with whom the person has an established care relationship and from whom he or she has received treatment within the past twelve months, the person does not have reasonable access.

(2) The following persons are not eligible for coverage by the pool:

(a) Any person having terminated coverage in the pool unless (i) twelve months have lapsed since termination, or (ii) that person can show continuous other coverage which has been involuntarily terminated for any reason other than nonpayment of premiums. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b));

(b) Inmates of public institutions and those persons who become eligible for medical assistance after June 30, 2008, as defined in RCW 74.09.010. However, these exclusions do not apply to eligible individuals as defined in section 2741(b) of the federal health insurance portability and accountability act of 1996 (42 U.S.C. Sec. 300gg-41(b)).

(3) When a carrier or insurer regulated under chapter 48.15 RCW begins to offer an individual health benefit plan in a county where no carrier had been offering an individual health benefit plan:

(a) If the health benefit plan offered is other than a catastrophic health plan as defined in RCW 48.43.005, any person enrolled in a pool plan pursuant to subsection (1)(a)(i) of this section in that county shall no longer be eligible for coverage under that plan pursuant to subsection (1)(a)(i) of this section; and

(b) The pool administrator shall provide written notice to any person who is no longer eligible for coverage under a pool plan under this subsection (3) within thirty days of the administrator's determination that the person is no longer eligible. The notice shall: (i) Indicate that coverage under the plan will cease ninety days from the date that the notice is dated; (ii) describe any other coverage options, either in or outside of the pool, available to the person; and (iii) describe the enrollment process for the available options outside of the pool.

Sec. 2. RCW 48.41.160 and 2017 c 110 s 3 are each amended to read as follows:

(1) On or before December 31, 2007, the pool shall cancel all existing pool policies and replace them with policies that are identical to the existing policies except for the inclusion of a provision providing for a guarantee of the continuity of coverage consistent with this section. As a means to minimize the number of policy changes for enrollees, replacement policies provided under this subsection also may include the plan modifications authorized in RCW 48.41.100, 48.41.110, and 48.41.120.

(2) A pool policy shall contain a guarantee of the individual's right to continued coverage, subject to the provisions of subsections (4), (5), (7), and (8) of this section.

(3) The guarantee of continuity of coverage required by this section shall not prevent the pool from canceling or nonrenewing a policy for:

(a) Nonpayment of premium;

(b) Violation of published policies of the pool;

(c) Failure of a covered person who becomes eligible for medicare benefits by reason of age to apply for a pool medical supplement plan, or a medicare supplement plan or other similar plan offered by a carrier pursuant to federal laws and regulations;

(d) Failure of a covered person to pay any deductible or copayment amount owed to the pool and not the provider of health care services;

(e) Covered persons committing fraudulent acts as to the pool;

(f) Covered persons materially breaching the pool policy; or

(g) Changes adopted to federal or state laws when such changes no longer permit the continued offering of such coverage.

(4)(a) The guarantee of continuity of coverage provided by this section requires that if the pool replaces a plan, it must make the replacement plan available to all individuals in the plan being replaced. The replacement plan must include all of the services covered under the replaced plan, and must not significantly limit access to the kind of services covered under the replacement plan through unreasonable cost-sharing requirements or otherwise. The pool may also allow individuals who are covered by a plan that is being replaced an unrestricted right to transfer to a fully comparable plan.

(b) The guarantee of continuity of coverage provided by this section requires that if the pool discontinues offering a plan: (i) The pool must provide notice to each individual of the discontinuation at least ninety days prior to the date of the discontinuation; (ii) the pool must offer to each individual provided coverage under the discontinued plan the option to enroll in any other plan currently offered by the pool for which the individual is otherwise eligible; and (iii) in exercising the option to discontinue a plan and in offering the option of coverage under (b)(ii) of this subsection, the pool must act uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for this coverage.

(c) The pool cannot replace or discontinue a plan under this subsection (4) until it has completed an evaluation of the impact of replacing the plan upon:

(i) The cost and quality of care to pool enrollees;

(ii) Pool financing and enrollment;

(iii) The board's ability to offer comprehensive and other plans to its enrollees;

(iv) Other items identified by the board.

In its evaluation, the board must request input from the constituents represented by the board members.

(d) The guarantee of continuity of coverage provided by this section does not apply if the pool has zero enrollment in a plan.

(5) The pool may not change the rates for pool policies except on a class basis, with a clear disclosure in the policy of the pool's right to do so.

(6) A pool policy offered under this chapter shall provide that, upon the death of the individual in whose name the policy is issued, every other individual then covered under the policy may elect, within a period specified in the policy, to continue coverage under the same or a different policy.

(7) All pool policies issued on or after January 1, 2014, must reflect the new eligibility requirements of RCW 48.41.100 (~~and contain a statement of the~~

~~intent to discontinue the pool coverage on December 31, 2022, under pool nonmedicare plans)).~~

(8) Pool policies issued prior to January 1, 2014, shall be modified effective January 1, 2018, consistent with subsection (3)(g) of this section ~~(, and contain a statement of the intent to discontinue pool coverage on December 31, 2022, under pool nonmedicare plans.~~

~~(9) The pool shall discontinue all nonmedicare pool plans effective December 31, 2022)).~~

Passed by the House February 24, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 61

[Second Substitute House Bill 1148]

ACUTE CARE HOSPITALS—LICENSING AND ENFORCEMENT

AN ACT Relating to protecting patient safety in acute care hospitals through improvements in licensing and enforcement; and amending RCW 70.41.020 and 70.41.130.

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

Sec. 1. RCW 70.41.020 and 2016 c 226 s 1 are each amended to read as follows:

Unless the context clearly indicates otherwise, the following terms, whenever used in this chapter, shall be deemed to have the following meanings:

(1) "Aftercare" means the assistance provided by a lay caregiver to a patient under this chapter after the patient's discharge from a hospital. The assistance may include, but is not limited to, assistance with activities of daily living, wound care, medication assistance, and the operation of medical equipment. "Aftercare" includes assistance only for conditions that were present at the time of the patient's discharge from the hospital. "Aftercare" does not include:

(a) Assistance related to conditions for which the patient did not receive medical care, treatment, or observation in the hospital; or

(b) Tasks the performance of which requires licensure as a health care provider.

(2) "Department" means the Washington state department of health.

(3) "Discharge" means a patient's release from a hospital following the patient's admission to the hospital.

(4) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine.

(5) "Emergency care to victims of sexual assault" means medical examinations, procedures, and services provided by a hospital emergency room to a victim of sexual assault following an alleged sexual assault.

(6) "Emergency contraception" means any health care treatment approved by the food and drug administration that prevents pregnancy, including but not limited to administering two increased doses of certain oral contraceptive pills within seventy-two hours of sexual contact.

(7) "Hospital" means any institution, place, building, or agency which provides accommodations, facilities and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care, of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis. "Hospital" as used in this chapter does not include hotels, or similar places furnishing only food and lodging, or simply domiciliary care; nor does it include clinics, or physician's offices where patients are not regularly kept as bed patients for twenty-four hours or more; nor does it include nursing homes, as defined and which come within the scope of chapter 18.51 RCW; nor does it include birthing centers, which come within the scope of chapter 18.46 RCW; nor does it include psychiatric hospitals, which come within the scope of chapter 71.12 RCW; nor any other hospital, or institution specifically intended for use in the diagnosis and care of those suffering from mental illness, intellectual disability, convulsive disorders, or other abnormal mental condition. Furthermore, nothing in this chapter or the rules adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any hospital conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denominations.

(8) "Immediate jeopardy" means a situation in which the hospital's noncompliance with one or more statutory or regulatory requirements has placed the health and safety of patients in its care at risk for serious injury, serious harm, serious impairment, or death.

(9) "Lay caregiver" means any individual designated as such by a patient under this chapter who provides aftercare assistance to a patient in the patient's residence. "Lay caregiver" does not include a long-term care worker as defined in RCW 74.39A.009.

~~((9))~~ (10) "Originating site" means the physical location of a patient receiving health care services through telemedicine.

~~((10))~~ (11) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

~~((11))~~ (12) "Secretary" means the secretary of health.

~~((12))~~ (13) "Sexual assault" has the same meaning as in RCW 70.125.030.

~~((13))~~ (14) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. "Telemedicine" does not include the use of audio-only telephone, facsimile, or email.

~~((14))~~ (15) "Victim of sexual assault" means a person who alleges or is alleged to have been sexually assaulted and who presents as a patient.

Sec. 2. RCW 70.41.130 and 2011 c 302 s 3 are each amended to read as follows:

(1) The department is authorized to ~~((deny, suspend, revoke, or modify a))~~ take any of the actions identified in this section against a hospital's license or provisional license in any case in which it finds that there has been a failure or

refusal to comply with the requirements of this chapter or the standards or rules adopted under this chapter or the requirements of RCW 71.34.375.

(a) When the department determines the hospital has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the hospital failed to correct noncompliance with a statute or rule by a date established or agreed to by the department, the department may impose reasonable conditions on a license. Conditions may include correction within a specified amount of time, training, or hiring a department-approved consultant if the hospital cannot demonstrate to the department that it has access to sufficient internal expertise. If the department determines that the violations constitute immediate jeopardy, the conditions may be imposed immediately in accordance with subsection (3) of this section.

(b)(i) In accordance with the authority the department has under RCW 43.70.095, the department may assess a civil fine of up to \$10,000 per violation, not to exceed a total fine of \$1,000,000, on a hospital licensed under this chapter when the department determines the hospital has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule, or has been given any previous statement of deficiency that included the same or similar type of violation of the same or similar statute or rule, or when the hospital failed to correct noncompliance with a statute or rule by a date established or agreed to by the department.

(ii) Proceeds from these fines may only be used by the department to offset costs associated with licensing hospitals.

(iii) The department shall adopt in rules under this chapter specific fine amounts in relation to:

(A) The severity of the noncompliance and at an adequate level to be a deterrent to future noncompliance; and

(B) The number of licensed beds and the operation size of the hospital. The licensed hospital beds will be categorized as:

(I) Up to 25 beds;

(II) 26 to 99 beds;

(III) 100 to 299 beds; and

(IV) 300 beds or greater.

(iv) If a licensee is aggrieved by the department's action of assessing civil fines, the licensee has the right to appeal under RCW 43.70.095.

(c) The department may suspend a specific category or categories of services or care or recovery units within the hospital as related to the violation by imposing a limited stop service. This may only be done if the department finds that noncompliance results in immediate jeopardy.

(i) Prior to imposing a limited stop service, the department shall provide a hospital written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy, and upon the review and approval of the notification by the secretary or the secretary's designee. The hospital shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practice or conditions that constitute immediate

jeopardy are not verified by the department as having been corrected within the same 24 hour period, the department may issue the limited stop service.

(ii) When the department imposes a limited stop service, the hospital may not admit any new patients to the units in the category or categories subject to the limited stop service until the limited stop service order is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the hospital if more than five business days is needed to verify the violation necessitating the limited stop service has been corrected.

(iv) The limited stop service shall be terminated when:

(A) The department verifies the violation necessitating the limited stop service has been corrected or the department determines that the hospital has taken intermediate action to address the immediate jeopardy; and

(B) The hospital establishes the ability to maintain correction of the violation previously found deficient.

(d) The department may suspend new admissions to the hospital by imposing a stop placement. This may only be done if the department finds that noncompliance results in immediate jeopardy and is not confined to a specific category or categories of patients or a specific area of the hospital.

(i) Prior to imposing a stop placement, the department shall provide a hospital written notification upon identifying deficient practices or conditions that constitute an immediate jeopardy, and upon the review and approval of the notification by the secretary or the secretary's designee. The hospital shall have 24 hours from notification to develop and implement a department-approved plan to correct the deficient practices or conditions that constitute an immediate jeopardy. If the deficient practice or conditions that constitute immediate jeopardy are not verified by the department as having been corrected within the same 24 hour period, the department may issue the stop placement.

(ii) When the department imposes a stop placement, the hospital may not admit any new patients until the stop placement order is terminated.

(iii) The department shall conduct a follow-up inspection within five business days or within the time period requested by the hospital if more than five business days is needed to verify the violation necessitating the stop placement has been corrected.

(iv) The stop placement order shall be terminated when:

(A) The department verifies the violation necessitating the stop placement has been corrected or the department determines that the hospital has taken intermediate action to address the immediate jeopardy; and

(B) The hospital establishes the ability to maintain correction of the violation previously found deficient.

(e) The department may deny an application for a license or suspend, revoke, or refuse to renew a license.

(2) The department shall adopt in rules under this chapter a fee methodology that includes funding expenditures to implement subsection (1) of this section. The fee methodology must consider:

(a) The operational size of the hospital; and

(b) The number of licensed beds of the hospital.

(3)(a) Except as otherwise provided, RCW 43.70.115 governs notice of ((a license denial, revocation, suspension, or modification)) actions taken by the

department under subsection (1) of this section and provides the right to an adjudicative proceeding. Adjudicative proceedings and hearings under this section are governed by the administrative procedure act, chapter 34.05 RCW. The application for an adjudicative proceeding must be in writing, state the basis for contesting the adverse action, including a copy of the department's notice, be served on and received by the department within 28 days of the licensee's receipt of the adverse notice, and be served in a manner that shows proof of receipt.

(b) When the department determines a licensee's noncompliance results in immediate jeopardy, the department may make the imposition of conditions on a licensee, a limited stop placement, stop placement, or the suspension of a license effective immediately upon receipt of the notice by the licensee, pending any adjudicative proceeding.

(i) When the department makes the suspension of a license or imposition of conditions on a license effective immediately, a licensee is entitled to a show cause hearing before a presiding officer within 14 days of making the request. The licensee must request the show cause hearing within 28 days of receipt of the notice of immediate suspension or immediate imposition of conditions. At the show cause hearing the department has the burden of demonstrating that more probably than not there is an immediate jeopardy.

(ii) At the show cause hearing, the presiding officer may consider the notice and documents supporting the immediate suspension or immediate imposition of conditions and the licensee's response and must provide the parties with an opportunity to provide documentary evidence and written testimony, and to be represented by counsel. Prior to the show cause hearing, the department must provide the licensee with all documentation that supports the department's immediate suspension or imposition of conditions.

(iii) If the presiding officer determines there is no immediate jeopardy, the presiding officer may overturn the immediate suspension or immediate imposition of conditions.

(iv) If the presiding officer determines there is immediate jeopardy, the immediate suspension or immediate imposition of conditions shall remain in effect pending a full hearing.

(v) If the presiding officer sustains the immediate suspension or immediate imposition of conditions, the licensee may request an expedited full hearing on the merits of the department's action. A full hearing must be provided within 90 days of the licensee's request.

Passed by the House February 25, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 62

[Substitute House Bill 1166]

HOMELESS AND FOSTER CARE COLLEGE STUDENTS PILOT PROGRAM—EXPANSION

AN ACT Relating to expanding access to the homeless and foster care college students pilot program; amending RCW 28B.50.916 and 28B.77.850; and providing expiration dates.

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

Sec. 1. RCW 28B.50.916 and 2019 c 330 s 1 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the college board shall select ~~((four))~~ eight college districts, ~~((two on each side of the crest of the Cascade mountain range,))~~ with no less than four located outside of the Puget Sound region to participate in a pilot program to provide assistance to students experiencing homelessness and to students who were in the foster care system when they graduated high school. The college districts chosen to participate in the pilot program must provide certain accommodations to these students that may include, but are not limited to, the following:

- (a) Access to laundry facilities;
- (b) Access to storage;
- (c) Access to locker room and shower facilities;
- (d) Reduced-price meals or meal plans, and access to food banks;
- (e) Access to technology;
- (f) Access to short-term housing or housing assistance, especially during seasonal breaks; and
- (g) Case management services.

(2) The college districts may also establish plans to develop surplus property for affordable housing to accommodate the needs of students experiencing homelessness and students who were in the foster care system when they graduated high school.

(3) The college districts participating in the pilot program shall leverage existing community resources by making available to students in the pilot program information that is available for individuals experiencing homelessness, including through not-for-profit organizations, the local housing authority, and the department of commerce's office of homeless youth.

(4) The college districts participating in the pilot program shall provide a joint report to the appropriate committees of the legislature by December 1, 2023, that includes at least the following information:

(a) The number of students experiencing homelessness or food insecurity, and the number of students who were in the foster care system when they graduated high school who were attending a community or technical college during the pilot program. The college board shall coordinate with all of the community and technical colleges to collect voluntary data on how many students experiencing homelessness or food insecurity are attending the community and technical colleges;

(b) The number of students assisted by the pilot program;

(c) Strategies for accommodating students experiencing homelessness or food insecurity, and former foster care students; and

(d) Legislative recommendations for how students experiencing homelessness or food insecurity, and former foster care students could be better served.

(5) The college districts not selected to participate in the pilot program are:

(a) Invited to participate voluntarily; and

(b) Encouraged to submit the data required of the pilot program participants under subsection (4) of this section, regardless of participation status.

(6) The pilot program expires July 1, ~~((2023))~~ 2024.

(7) This section expires January 1, (~~(2024)~~) 2025.

Sec. 2. RCW 28B.77.850 and 2019 c 330 s 2 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the council shall select (~~(two)~~) four public four-year institutions of higher education, (~~(one)~~) two on each side of the crest of the Cascade mountain range, to participate in a pilot program to provide assistance to students experiencing homelessness and to students who were in the foster care system when they graduated high school. The four-year institutions of higher education chosen to participate in the pilot program must provide certain accommodations to these students that may include, but are not limited to, the following:

- (a) Access to laundry facilities;
- (b) Access to storage;
- (c) Access to locker room and shower facilities;
- (d) Reduced-price meals or meal plans, and access to food banks;
- (e) Access to technology;
- (f) Access to short-term housing or housing assistance, especially during seasonal breaks; and
- (g) Case management services.

(2) The four-year institutions of higher education may also establish plans to develop surplus property for affordable housing to accommodate the needs of students experiencing homelessness and students who were in the foster care system when they graduated high school.

(3) The four-year institutions of higher education participating in the pilot program shall leverage existing community resources by making available to students in the pilot program information that is available for individuals experiencing homelessness, including through not-for-profit organizations, the local housing authority, and the department of commerce's office of homeless youth.

(4) The four-year institutions of higher education participating in the pilot program shall provide a joint report to the appropriate committees of the legislature by December 1, 2023, that includes at least the following information:

(a) The number of students experiencing homelessness or food insecurity, and the number of students who were in the foster care system when they graduated high school who were attending a four-year institution of higher education during the pilot program. The council shall coordinate with all of the four-year institutions of higher education to collect voluntary data on how many students experiencing homelessness or food insecurity are attending the four-year institutions of higher education;

(b) The number of students assisted by the pilot program;

(c) Strategies for accommodating students experiencing homelessness or food insecurity, and former foster care students; and

(d) Legislative recommendations for how students experiencing homelessness or food insecurity, and former foster care students could be better served.

(5) The four-year institutions of higher education not selected to participate in the pilot program are:

- (a) Invited to participate voluntarily; and

(b) Encouraged to submit the data required of the pilot program participants under subsection (4) of this section, regardless of participation status.

(6) The pilot program expires July 1, (~~2023~~) 2024.

(7) This section expires January 1, (~~2024~~) 2025.

Passed by the House February 26, 2021.

Passed by the Senate April 7, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 63

[House Bill 1167]

THURSTON COUNTY SUPERIOR COURT—ADDITIONAL JUDGE

AN ACT Relating to Thurston county superior court judges; amending RCW 2.08.065; and creating a new section.

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

Sec. 1. RCW 2.08.065 and 2020 c 53 s 3 are each amended to read as follows:

There shall be in the county of Grant, three judges of the superior court; in the county of Okanogan, two judges of the superior court; in the county of Mason, three judges of the superior court; in the county of Thurston, (~~eight~~) nine judges of the superior court; in the counties of Pacific and Wahkiakum jointly, one judge of the superior court; in the counties of Ferry, Pend Oreille, and Stevens jointly, three judges of the superior court; in the county of San Juan, one judge of the superior court; and in the county of Island, two judges of the superior court.

NEW SECTION. Sec. 2. (1) The additional judicial position created by section 1 of this act is effective only if Thurston county, through its duly constituted legislative authority, documents its approval of the additional position and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of the additional judicial position as provided by state law and the state Constitution.

(2) The judicial position created by section 1 of this act is effective November 1, 2021.

Passed by the House March 3, 2021.

Passed by the Senate April 7, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 64

[Substitute House Bill 1170]

MANUFACTURING—WORKFORCE

AN ACT Relating to building economic strength through manufacturing; adding new sections to chapter 43.330 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** This act may be known and cited as the Washington BEST manufacturing act.

NEW SECTION. **Sec. 2.** It is the intent of the legislature that Washington retain and build on its leadership in the manufacturing and research and development sectors. The legislature finds that a thriving research and production sector are complimentary and should be promoted in every region of the state. The legislature finds this is critical to provide a strong, resilient tax base for good schools, safe streets, and community optimism. Therefore, the legislature intends to identify and invest in strategies to ensure every geographic region of the state can benefit from a strong manufacturing and research and development base, with the goal of doubling the state's manufacturing employment base, the number of small businesses, and the number of women and minority-owned manufacturing businesses in the next 10 years.

NEW SECTION. **Sec. 3.** (1) The department is responsible for identifying and developing strategies to help achieve the goals established in section 2 of this act. In support of pursuing the goal, the department must prepare and update each fiscal biennium a report on the state of the manufacturing and research and development industry and workforce. The report must identify progress or challenges the state has encountered in achieving the goals established in section 2 of this act and identify recommendations to the legislature.

(2) The report may include, but not be limited to:

(a) Recommendations for specific actions to develop a manufacturing workforce pipeline and specific manufacturing subsectors that present workforce opportunities or challenges;

(b) Identification of dislocated workers;

(c) Career-connected learning opportunities;

(d) A survey of financial aid that can be leveraged to fund training for the manufacturing workforce pipeline, such as Washington college grant opportunities, passport to careers, and prison to postsecondary funding;

(e) Recommendations on improving the state's competitiveness for manufacturing and research and development job retention and creation;

(f) Identification of high-demand advanced manufacturing industries and subsectors globally;

(g) Identification of site selection criteria of advanced manufacturing and research and development projects; and

(h) Recommendations of best practices to streamline environmental permit approval and appeal processes for the purpose of getting manufacturing businesses who want to site or expand in Washington more certainty, faster.

(3) The department must convene a manufacturing council to advise and consult on the development of the report and recommendations.

(a) The director or the director's designee must appoint to the council such persons from the private, nonprofit, and public sectors as may best inform the state's ability to innovate, diversify supply chains, and expand living wage jobs in the manufacturing sector.

(b) Representatives must include small to mid-sized private sector manufacturing businesses, labor and apprenticeship programs, statewide business associations, higher education institutions, and workforce partners. The department must work to ensure:

- (i) Equal representation of business and labor on the council;
- (ii) That appointees represent every region of the state such that economic diversification across all regions is supported; and
- (iii) That the council includes a strong array of voices from women and minority executives and labor in manufacturing.

(4) All state agencies with expertise in workforce development and economic development are encouraged to provide such information and resources as may be requested to inform and facilitate identification and analysis of public policy challenges and potential recommendations for the report in subsections (1) and (2) of this section.

(5) In its first biennial report, the department shall coordinate with the office of the superintendent of public instruction and the state board for community and technical colleges to assess any inadequacy or gaps in delivering hands-on, skills-based learning remotely to all Washingtonians seeking to enter the manufacturing workforce or to be retrained for a transition within the manufacturing workforce.

NEW SECTION. Sec. 4. (1) The department must support the development of regionally tailored strategies to facilitate the continued existence and development of manufacturing workforce across the state.

(2) To support regional manufacturing cluster development and job creation, the department must grant any funding provided in section 5 of this act for initiatives that accelerate the development of regional clusters intended to grow living wage jobs in manufacturing and research and development.

(3) The department is encouraged to consider the creation of regional offices or establishing additional duty stations that facilitate sector leads to be located in the regions most dependent on their sector.

NEW SECTION. Sec. 5. (1) The manufacturing cluster acceleration subaccount is established in the economic development strategic reserve account. All receipts from appropriations made to the manufacturing cluster acceleration subaccount shall be deposited into the subaccount.

(2) The department may make expenditures from the subaccount to support regional cluster acceleration strategies, including: Supporting projects to assist manufacturers to diversify their customer base and supply chain, supporting pilot or demonstration manufacturing projects coordination with organized cluster initiatives, and supporting projects that are intended to increase manufacturing and research and development jobs regionally.

(3) The department is encouraged to seek match funds for any funds appropriated to this account and may utilize funds to match nonstate funds being expended on a specific project that aligns with the purpose of this section.

NEW SECTION. Sec. 6. (1) The department must appoint a workforce innovation sector lead, to coordinate workforce activities and needs identified by industry sector leads such as the manufacturing, clean technology, and aerospace sector leads, and connect this work with the lead workforce agencies to inform strategic allocation of funding.

(2) Within existing resources, the department must report to the appropriate committees of the legislature beginning December 1, 2022, and continuing every fourth year thereafter, the progress made in developing, recruiting, and retaining research and development employers and workforce; and a description of how

the state's policy toolkit for developing strength in research and development as a sector compares to competitor states.

NEW SECTION. Sec. 7. The duties in sections 2 through 6 of this act are subject to the availability of amounts appropriated for the specific purpose.

NEW SECTION. Sec. 8. Sections 2 through 7 of this act are each added to chapter 43.330 RCW and codified with the subchapter heading of "MANUFACTURING AND RESEARCH AND DEVELOPMENT SECTOR PROMOTION."

Passed by the House March 9, 2021.

Passed by the Senate April 7, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 65

[Engrossed House Bill 1192]

TECHNICAL CORRECTIONS

AN ACT Relating to making technical corrections and removing obsolete language from the Revised Code of Washington pursuant to RCW 1.08.025; amending RCW 7.60.025, 7.60.150, 7.80.120, 8.25.280, 15.58.180, 15.66.017, 15.115.020, 18.106.010, 18.210.130, 19.27.080, 19.27.580, 19.27A.210, 19.405.090, 28B.10.926, 28B.130.010, 34.05.272, 35A.56.010, 36.32.265, 39.04.175, 39.26.265, 39.26.310, 39.34.190, 43.01.225, 43.01.230, 43.01.240, 43.19.623, 43.19.637, 43.19.800, 43.20.050, 43.20.065, 43.21K.010, 43.21K.020, 43.21K.030, 43.30.570, 43.42.070, 43.70.080, 43.70.660, 43.83.350, 43.131.421, 43.131.422, 43.155.070, 46.37.470, 46.55.230, 46.80.020, 47.01.475, 47.28.220, 49.17.270, 49.70.175, 52.12.150, 53.08.470, 54.04.092, 57.08.017, 64.44.010, 69.07.170, 69.48.060, 69.50.511, 69.55.020, 70.79.090, 70.290.050, 70A.45.090, 70A.45.100, 70A.325.070, 70A.325.130, 70A.330.010, 70A.445.020, 70A.530.020, 70A.530.020, 76.04.205, 76.09.905, 77.12.734, 77.60.170, 78.44.050, 78.56.020, 78.56.040, 78.56.100, 78.56.150, 79.100.030, 79.100.050, 79A.05.050, 79A.05.189, 80.01.300, 80.04.110, 80.04.180, 80.28.030, 80.28.110, 80.70.010, 80.70.040, 81.04.010, 81.88.160, 90.44.105, 26.51.020, 11.130.040, 11.130.245, 11.130.670, and 11.130.910; reenacting and amending RCW 15.86.020, 18.104.020, 43.19A.010, 46.16A.060, 70.345.010, 70A.345.030, and 80.04.010; reenacting RCW 53.54.030 and 70.97.040; creating a new section; decodifying RCW 1.08.130; and providing effective dates.

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

NEW SECTION. Sec. 1. RCW 1.08.025 directs the code reviser, with the approval of the statute law committee, to prepare legislation for submission to the legislature "concerning deficiencies, conflicts, or obsolete provisions" in statutes. This act makes technical, nonsubstantive amendments as follows:

(1) Section 2 of this act decodifies an obsolete section.

(2) Sections 3 through 5 of this act merge double amendments created when sections were amended in the 2020 legislative session without reference to the amendments made in the same session.

(3) Chapter 20, Laws of 2020 (SHB 2246) reorganized certain environmental statutes and recodified numerous statutes to create a new Title 70A RCW. Sections 6 through 102 of this act update and correct many of the RCW citations impacted by chapter 20, Laws of 2020.

(4) Section 103 of this act corrects an erroneous chapter reference.

(5) Sections 104 through 108 of this act clarify references to the effective date of chapter 11.130 RCW.

NEW SECTION. Sec. 2. RCW 1.08.130 (Gender neutral language—Code improvement) is decodified.

Sec. 3. RCW 53.54.030 and 2020 c 112 s 1 and 2020 c 105 s 3 are each reenacted to read as follows:

(1) For the purposes of this chapter, in developing a remedial program, the port commission may take steps as appropriate including, but not limited to, one or more of the following programs:

(a) Acquisition of property or property rights within the impacted area, which shall be deemed necessary to accomplish a port purpose. The port district may purchase such property or property rights by time payment notwithstanding the time limitations provided for in RCW 53.08.010. The port district may mortgage or otherwise pledge any such properties acquired to secure such transactions. The port district may assume any outstanding mortgages.

(b) Transaction assistance programs, including assistance with real estate fees and mortgage assistance, and other neighborhood remedial programs as compensation for impacts due to aircraft noise and noise associated conditions. Any such programs shall be in connection with properties located within an impacted area and shall be provided upon terms and conditions as the port district shall determine appropriate.

(c) Programs of soundproofing structures located within an impacted area. Such programs may be executed without regard to the ownership, provided the owner waives damages and conveys an easement for the operation of aircraft, and for noise and noise associated conditions therewith, to the port district.

(d) Mortgage insurance of private owners of lands or improvements within such noise impacted area where such private owners are unable to obtain mortgage insurance solely because of noise impact. In this regard, the port district may establish reasonable regulations and may impose reasonable conditions and charges upon the granting of such mortgage insurance. Such mortgage insurance fees and charges shall at no time exceed fees established for federal mortgage insurance programs for like service.

(e) Management of all lands, easements, or development rights acquired, including but not limited to the following:

(i) Rental of any or all lands or structures acquired;

(ii) Redevelopment of any such lands for any economic use consistent with airport operations, local zoning and the state environmental policy;

(iii) Sale of such properties for cash or for time payment and subsection of such property to mortgage or other security transaction: PROVIDED, That any such sale shall reserve to the port district by covenant an unconditional right of easement for the operation of all aircraft and for all noise or noise conditions associated therewith.

(2)(a) An individual property may be provided benefits by the port district under each of the programs described in subsection (1) of this section. However, an individual property may not be provided benefits under any one of these programs more than once, unless the property:

(i) Is subjected to increased aircraft noise or differing aircraft noise impacts that would have afforded different levels of mitigation, even if the property owner had waived all damages and conveyed a full and unrestricted easement; or

(ii) Contains a soundproofing installation, structure, or other type of sound mitigation equipment product or benefit previously installed pursuant to the

remedial program under this chapter by the port district that is determined through inspection to be in need of a repair or replacement.

(b) Port districts choosing to exercise the authority under (a)(ii) of this subsection are required to conduct inspections of homes where mitigation improvements are no longer working as intended. In those properties, port districts must work with a state certified building inspector to determine whether package failure resulted in additional hazards or structural damage to the property.

(3) A property shall be considered within the impacted area if any part thereof is within the impacted area.

Sec. 4. RCW 70.97.040 and 2020 c 312 s 730 and 2020 c 278 s 3 are each reenacted to read as follows:

Every person who is a resident of an enhanced services facility shall be entitled to all of the rights set forth in chapter 70.129 RCW.

NEW SECTION. **Sec. 5.** Section 4 of this act takes effect January 1, 2022.

Sec. 6. RCW 7.60.025 and 2019 c 389 s 1 are each amended to read as follows:

(1) A receiver may be appointed by the superior court of this state in the following instances, but except in any case in which a receiver's appointment is expressly required by statute, or any case in which a receiver's appointment is sought by a state agent whose authority to seek the appointment of a receiver is expressly conferred by statute, or any case in which a receiver's appointment with respect to real property is sought under (b)(ii) of this subsection, a receiver shall be appointed only if the court additionally determines that the appointment of a receiver is reasonably necessary and that other available remedies either are not available or are inadequate:

(a) On application of any party, when the party is determined to have a probable right to or interest in property that is a subject of the action and in the possession of an adverse party, or when the property or its revenue-producing potential is in danger of being lost or materially injured or impaired. A receiver may be appointed under this subsection (1)(a) whether or not the application for appointment of a receiver is combined with, or is ancillary to, an action seeking a money judgment or other relief;

(b) Provisionally, after commencement of any judicial action or nonjudicial proceeding to foreclose upon any lien against or for forfeiture of any interest in real or personal property, on application of any person, when the interest in the property that is the subject of such an action or proceeding of the person seeking the receiver's appointment is determined to be probable and either:

(i) The property or its revenue-producing potential is in danger of being lost or materially injured or impaired; or

(ii) The appointment of a receiver with respect to the real or personal property that is the subject of the action or proceeding is provided for by agreement or is reasonably necessary to effectuate or enforce an assignment of rents or other revenues from the property. For purposes of this subsection (1)(b), a judicial action is commenced as provided in superior court civil rule 3(a), a nonjudicial proceeding is commenced under chapter 61.24 RCW upon the service of notice of default described in RCW 61.24.030(8), and a proceeding

for forfeiture is commenced under chapter 61.30 RCW upon the recording of the notice of intent to forfeit described in RCW 61.30.060;

(c) After judgment, in order to give effect to the judgment;

(d) To dispose of property according to provisions of a judgment dealing with its disposition;

(e) To the extent that property is not exempt from execution, at the instance of a judgment creditor either before or after the issuance of any execution, to preserve or protect it, or prevent its transfer;

(f) If and to the extent that property is subject to execution to satisfy a judgment, to preserve the property during the pendency of an appeal, or when an execution has been returned unsatisfied, or when an order requiring a judgment debtor to appear for proceedings supplemental to judgment has been issued and the judgment debtor fails to submit to examination as ordered;

(g) Upon an attachment of real or personal property when the property attached is of a perishable nature or is otherwise in danger of waste, impairment, or destruction, or where the abandoned property's owner has absconded with, secreted, or abandoned the property, and it is necessary to collect, conserve, manage, control, or protect it, or to dispose of it promptly, or when the court determines that the nature of the property or the exigency of the case otherwise provides cause for the appointment of a receiver;

(h) In an action by a transferor of real or personal property to avoid or rescind the transfer on the basis of fraud, or in an action to subject property or a fund to the payment of a debt;

(i) In an action against any person who is not an individual if the object of the action is the dissolution of that person, or if that person has been dissolved, or if that person is insolvent or is not generally paying the person's debts as those debts become due unless they are the subject of bona fide dispute, or if that person is in imminent danger of insolvency;

(j) In accordance with RCW 7.08.030 (4) and (6), in cases in which a general assignment for the benefit of creditors has been made;

(k) In quo warranto proceedings under chapter 7.56 RCW;

(l) As provided under RCW 11.64.022;

(m) In an action by the department of licensing under RCW 18.35.220(3) with respect to persons engaged in the business of dispensing of hearing aids, RCW 18.85.430 in the case of persons engaged in the business of a real estate broker, associate real estate broker, or real estate salesperson, or RCW 19.105.470 with respect to persons engaged in the business of camping resorts;

(n) In an action under RCW 18.44.470 or 18.44.490 in the case of persons engaged in the business of escrow agents;

(o) Upon a petition with respect to a nursing home in accordance with and subject to receivership provisions under chapter 18.51 RCW;

(p) In connection with a proceeding for relief with respect to a voidable transfer as to a present or future creditor under RCW 19.40.041 or a present creditor under RCW 19.40.051;

(q) Under RCW 19.100.210(1), in an action by the attorney general or director of financial institutions to restrain any actual or threatened violation of the franchise investment protection act;

(r) In an action by the attorney general or by a prosecuting attorney under RCW 19.110.160 with respect to a seller of business opportunities;

(s) In an action by the director of financial institutions under RCW 21.20.390 in cases involving actual or threatened violations of the securities act of Washington or under RCW 21.30.120 in cases involving actual or threatened violations of chapter 21.30 RCW with respect to certain businesses and transactions involving commodities;

(t) In an action for or relating to dissolution of a business corporation under RCW 23B.14.065, 23B.14.300, 23B.14.310, or 23B.14.320, for dissolution of a nonprofit corporation under RCW 24.03.271, for dissolution of a mutual corporation under RCW 24.06.305, or in any other action for the dissolution or winding up of any other entity provided for by Title 23, 23B, 24, or 25 RCW;

(u) In any action in which the dissolution of any public or private entity is sought, in any action involving any dispute with respect to the ownership or governance of such an entity, or upon the application of a person having an interest in such an entity when the appointment is reasonably necessary to protect the property of the entity or its business or other interests;

(v) Under RCW 25.05.215, in aid of a charging order with respect to a partner's interest in a partnership;

(w) Under and subject to RCW 30A.44.100, 30A.44.270, and 30A.56.030, in the case of a state commercial bank, RCW 30B.44B.100, in the case of a state trust company, RCW 32.24.070, 32.24.073, 32.24.080, and 32.24.090, in the case of a state savings bank;

(x) Under and subject to RCW 31.12.637 and 31.12.671 through 31.12.724, in the case of credit unions;

(y) Upon the application of the director of financial institutions under RCW 31.35.090 in actions to enforce chapter 31.35 RCW applicable to agricultural lenders, under RCW 31.40.120 in actions to enforce chapter 31.40 RCW applicable to entities engaged in federally guaranteed small business loans, under RCW 31.45.160 in actions to enforce chapter 31.45 RCW applicable to persons licensed as check cashers or check sellers, or under RCW 19.230.230 in actions to enforce chapter 19.230 RCW applicable to persons licensed under the uniform money services act;

(z) Under RCW 35.82.090 or 35.82.180, with respect to a housing project;

(aa) Under RCW 39.84.160 or 43.180.360, in proceedings to enforce rights under any revenue bonds issued for the purpose of financing industrial development facilities or bonds of the Washington state housing finance commission, or any financing document securing any such bonds;

(bb) Under and subject to RCW 43.70.195, in an action by the secretary of health or by a local health officer with respect to a public water system;

(cc) As contemplated by RCW 61.24.030, with respect to real property that is the subject of nonjudicial foreclosure proceedings under chapter 61.24 RCW;

(dd) As contemplated by RCW 61.30.030(3), with respect to real property that is the subject of judicial or nonjudicial forfeiture proceedings under chapter 61.30 RCW;

(ee) Under RCW 64.32.200(2), in an action or proceeding commenced under chapter 61.12 or 61.24 RCW to foreclose upon a lien for common expenses against a dwelling unit subject to the horizontal property regimes act, chapter 64.32 RCW. For purposes of this subsection (1)(ee), a judicial action is commenced as provided in superior court civil rule 3(a) and a nonjudicial

proceeding is commenced under chapter 61.24 RCW upon the service of notice of default described in RCW 61.24.030(8);

(ff) Under RCW 64.34.364(10), in an action or proceeding commenced under chapter 61.12 or 61.24 RCW by a unit owners' association to foreclose a lien for nonpayment of delinquent assessments against condominium units. For purposes of this subsection (1)(ff), a judicial action is commenced as provided in superior court civil rule (3)(a) and a nonjudicial proceeding is commenced under chapter 61.24 RCW upon the service of notice of default described in RCW 61.24.030(8);

(gg) Upon application of the attorney general under RCW 64.36.220(3), in aid of any writ or order restraining or enjoining violations of chapter 64.36 RCW applicable to timeshares;

(hh) Under RCW ((70.95A.050)) 70A.210.070(3), in aid of the enforcement of payment or performance of municipal bonds issued with respect to facilities used to abate, control, or prevent pollution;

(ii) Upon the application of the department of social and health services under RCW 74.42.580, in cases involving nursing homes;

(jj) Upon the application of the utilities and transportation commission under RCW 80.28.040, with respect to a water company or wastewater company that has failed to comply with an order of such commission within the time deadline specified therein;

(kk) Under RCW 87.56.065, in connection with the dissolution of an irrigation district;

(ll) Upon application of the attorney general or the department of licensing, in any proceeding that either of them are authorized by statute to bring to enforce Title 18 or 19 RCW; the securities act of Washington, chapter 21.20 RCW; the Washington commodities act, chapter 21.30 RCW; the land development act, chapter 58.19 RCW; or under chapter 64.36 RCW relating to the regulation of timeshares;

(mm) Upon application of the director of financial institutions in any proceeding that the director of financial institutions is authorized to bring to enforce chapters 31.35, 31.40, and 31.45 RCW; or

(nn) In such other cases as may be provided for by law, or when, in the discretion of the court, it may be necessary to secure ample justice to the parties.

(2) The superior courts of this state shall appoint as receiver of property located in this state a person who has been appointed by a federal or state court located elsewhere as receiver with respect to the property specifically or with respect to the owner's property generally, upon the application of the person or of any party to that foreign proceeding, and following the appointment shall give effect to orders, judgments, and decrees of the foreign court affecting the property in this state held by the receiver, unless the court determines that to do so would be manifestly unjust or inequitable. The venue of such a proceeding may be any county in which the person resides or maintains any office, or any county in which any property over which the receiver is to be appointed is located at the time the proceeding is commenced.

(3) At least seven days' notice of any application for the appointment of a receiver must be given to the owner of property to be subject thereto and to all other parties in the action, and to other parties in interest as the court may require. If any execution by a judgment creditor under Title 6 RCW or any

application by a judgment creditor for the appointment of a receiver, with respect to property over which the receiver's appointment is sought, is pending in any other action at the time the application is made, then notice of the application for the receiver's appointment also must be given to the judgment creditor in the other action. The court may shorten or expand the period for notice of an application for the appointment of a receiver upon good cause shown.

(4) The order appointing a receiver in all cases must reasonably describe the property over which the receiver is to take charge, by category, individual items, or both if the receiver is to take charge of less than all of the owner's property. If the order appointing a receiver does not expressly limit the receiver's authority to designated property or categories of property of the owner, the receiver is a general receiver with the authority to take charge over all of the owner's property, wherever located.

(5) The court may condition the appointment of a receiver upon the giving of security by the person seeking the receiver's appointment, in such amount as the court may specify, for the payment of costs and damages incurred or suffered by any person should it later be determined that the appointment of the receiver was wrongfully obtained.

Sec. 7. RCW 7.60.150 and 2004 c 165 s 17 are each amended to read as follows:

The receiver, or any party in interest, upon order of the court following notice and a hearing, and upon the conditions or terms the court considers just and proper, may abandon any estate property that is burdensome to the receiver or is of inconsequential value or benefit. However, a receiver may not abandon property that is a hazard or potential hazard to the public in contravention of a state statute or rule that is reasonably designed to protect the public health or safety from identified hazards, including but not limited to chapters (~~(70.105 and 70.105D)~~) 70A.300 and 70A.305 RCW. Property that is abandoned no longer constitutes estate property.

Sec. 8. RCW 7.80.120 and 2018 c 176 s 5 are each amended to read as follows:

(1) A person found to have committed a civil infraction shall be assessed a monetary penalty.

(a) The maximum penalty and the default amount for a class 1 civil infraction shall be two hundred fifty dollars, not including statutory assessments, except for an infraction of state law involving (i) potentially dangerous litter as specified in RCW (~~(70.93.060)~~) 70A.200.060(4) or violent video or computer games under RCW 9.91.180, in which case the maximum penalty and default amount is five hundred dollars; or (ii) a person's refusal to submit to a test or tests pursuant to RCW 79A.60.040 and 79A.60.700, in which case the maximum penalty and default amount is one thousand dollars; or (iii) the misrepresentation of service animals under RCW 49.60.214, in which case the maximum penalty and default amount is five hundred dollars;

(b) The maximum penalty and the default amount for a class 2 civil infraction shall be one hundred twenty-five dollars, not including statutory assessments;

(c) The maximum penalty and the default amount for a class 3 civil infraction shall be fifty dollars, not including statutory assessments; and

(d) The maximum penalty and the default amount for a class 4 civil infraction shall be twenty-five dollars, not including statutory assessments.

(2) The supreme court shall prescribe by rule the conditions under which local courts may exercise discretion in assessing fines for civil infractions.

(3) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the prosecuting authority of the failure to pay.

(4) The court may also order a person found to have committed a civil infraction to make restitution.

Sec. 9. RCW 8.25.280 and 1990 c 133 s 9 are each amended to read as follows:

Consistent with standard appraisal practices, the valuation of a public water system as defined in RCW (~~(70.119A.020)~~) 70A.125.010 shall reflect the cost of system improvements necessary to comply with health and safety rules of the state board of health and applicable regulations developed under chapter 43.20, 43.20A, or (~~(70.116)~~) 70A.100 RCW.

Sec. 10. RCW 15.58.180 and 2013 c 144 s 10 are each amended to read as follows:

(1) Except as provided in subsections (4) and (5) of this section, it is unlawful for any person to act in the capacity of a pesticide dealer or advertise as or assume to act as a pesticide dealer without first having obtained an annual license from the director. The license expires on the business license expiration date. A license is required for each location or outlet located within this state from which pesticides are distributed. A manufacturer, registrant, or distributor who has no pesticide dealer outlet licensed within this state and who distributes pesticides directly into this state must obtain a pesticide dealer license for his or her principal out-of-state location or outlet, but such a licensed out-of-state pesticide dealer is exempt from the pesticide dealer manager requirements.

(2) Application for a license must be accompanied by a fee of sixty-seven dollars and must be made through the business licensing system and must include the full name of the person applying for the license and the name of the individual within the state designated as the pesticide dealer manager. If the applicant is a partnership, association, corporation, or organized group of persons, the full name of each member of the firm or partnership or the names of the officers of the association or corporation must be given on the application. The application must state the principal business address of the applicant in the state and elsewhere, the name of a person domiciled in this state authorized to receive and accept service of summons of legal notices of all kinds for the applicant, and any other necessary information prescribed by the director.

(3) It is unlawful for any licensed dealer outlet to operate without a pesticide dealer manager who has a license of qualification.

(4) This section does not apply to (a) a licensed pesticide applicator who sells pesticides only as an integral part of the applicator's pesticide application service when pesticides are dispensed only through apparatuses used for

pesticide application, or (b) any federal, state, county, or municipal agency that provides pesticides only for its own programs.

(5) A user of a pesticide may distribute a properly labeled pesticide to another user who is legally entitled to use that pesticide without obtaining a pesticide dealer's license if the exclusive purpose of distributing the pesticide is keeping it from becoming a hazardous waste as defined in chapter ~~((70.105))~~ 70A.300 RCW.

Sec. 11. RCW 15.66.017 and 2018 c 236 s 707 are each amended to read as follows:

This chapter and the rules adopted under it are only one aspect of the comprehensively regulated agricultural industry.

(1) Other laws applicable to agricultural commodities include the following chapters and the rules adopted thereunder:

- Chapter 15.08 RCW Horticultural pests and diseases;
 - Chapter 15.13 RCW Horticultural plants, Christmas trees, and facilities—
Inspection and licensing;
 - Chapter 15.14 RCW Planting stock;
 - Chapter 15.15 RCW Certified seed potatoes;
 - Chapter 15.17 RCW Standards of grades and packs;
 - Chapter 15.19 RCW Certification and inspection of ginseng;
 - Chapter 15.30 RCW Controlled atmosphere storage of fruits and vegetables;
 - Chapter 15.49 RCW Seeds;
 - Chapter 15.53 RCW Commercial feed;
 - Chapter 15.54 RCW Fertilizers, minerals, and limes;
 - Chapter 15.58 RCW Washington pesticide control act;
 - Chapter 15.60 RCW Apiaries;
 - Chapter 15.64 RCW Farm marketing;
 - Chapter 15.83 RCW Agricultural marketing and fair practices;
 - Chapter 15.85 RCW Aquaculture marketing;
 - Chapter 15.86 RCW Organic products;
 - Chapter 15.92 RCW Center for sustaining agriculture and natural resources;
 - Chapter 15.130 RCW Food safety and security act;
 - Chapter 17.24 RCW Insect pests and plant diseases;
 - Chapter 19.94 RCW Weights and measures;
 - Chapter 20.01 RCW Agricultural products—Commission merchants,
dealers, brokers, buyers, agents;
 - Chapter 22.09 RCW Agricultural commodities;
 - Chapter 69.07 RCW Washington food processing act;
 - Chapter 69.25 RCW Washington wholesome eggs and egg products act;
 - Chapter 69.28 RCW Honey;
 - 7 U.S.C., section 136, Federal insecticide, fungicide, and rodenticide act.
- (2) In addition to the laws and regulations listed in subsection (1) of this section that apply to the agricultural industry as a whole, the potato industry is regulated by or must comply with the following additional laws and the rules or regulations adopted thereunder:
- (a) 7 C.F.R., Part 51, United States standards for grades of potatoes;
 - (b) 7 C.F.R., Part 946, Federal marketing order for Irish potatoes grown in Washington;
 - (c) 7 C.F.R., Part 1207, Potato research and promotion plan.

(3) In addition to the laws and regulations listed in subsection (1) of this section that apply to the agricultural industry as a whole, the wheat and barley industries are regulated by or must comply with the following additional laws and the rules adopted thereunder:

(a) 7 U.S.C., section 1621, Agricultural marketing act;

(b) Chapter (~~(70.94)~~) 70A.15 RCW, Washington clean air act, agricultural burning.

(4) In addition to the laws and regulations listed in subsection (1) of this section that apply to the agricultural industry as a whole, the poultry industry is regulated by or must comply with the following additional laws and the rules adopted thereunder:

(a) 21 U.S.C., chapter 10, Poultry and poultry products inspection;

(b) 21 U.S.C., chapter 9, Packers and stockyards;

(c) 7 U.S.C., section 1621, Agricultural marketing act;

(d) Washington fryer commission labeling standards.

Sec. 12. RCW 15.86.020 and 2010 c 109 s 2 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) "Certification" or "certified" means a determination documented by a certificate of organic operation made by a certifying agent that a production or handling operation is in compliance with the national organic program or with international standards.

(2) "Compost" means the product of a managed process through which microorganisms break down plant and animal materials into more available forms suitable for application to the soil.

(3) "Crop production aid" means any substance, material, structure, or device that is used to aid a producer of an agricultural product except for fertilizers and pesticides.

(4) "Department" means the state department of agriculture.

(5) "Director" means the director of the department of agriculture or the director's designee.

(6) "Fertilizer" means a single or blended substance containing one or more recognized plant nutrients which is used primarily for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth.

(7) "Handler" means any person who sells, distributes, or packs organic or transitional products.

(8) "Label" means a display of written, printed, or graphic material on the immediate container of an agricultural product or any such material affixed to any agricultural product or affixed to a bulk container containing an agricultural product, except for package liners or a display of written, printed, or graphic material which contains only information about the weight of the product.

(9) "Labeling" includes all written, printed, or graphic material accompanying an agricultural product at any time or written, printed, or graphic material about the agricultural product displayed at retail stores about the product.

(10) "Livestock production aid" means any substance, material, structure, or device that is used to aid a producer in the production of livestock such as parasiticides, medicines, and feed additives.

(11) "Manufacturer" means a person that compounds, produces, granulates, mixes, blends, repackages, or otherwise alters the composition of materials.

(12) "Material" means any substance or mixture of substances that is intended to be used in agricultural production, processing, or handling.

(13) "National organic program" means the program administered by the United States department of agriculture pursuant to 7 C.F.R. Part 205, which implements the federal organic food production act of 1990 (7 U.S.C. Sec. 6501 et seq.).

(14) "Organic certifying agent" means any third-party certification organization that is recognized by the director as being one which imposes, for certification, standards consistent with this chapter.

(15) "Organic product" means any agricultural product, in whole or in part, including meat, dairy, and beverage, that is marketed using the term organic or any derivative of organic and that is produced, handled, and processed in accordance with this chapter.

(16) "Organic waste-derived material" means grass clippings, leaves, weeds, bark, plantings, prunings, and other vegetative wastes, uncontaminated wood waste from logging and milling operations, food wastes, food processing wastes, and materials derived from these wastes through composting. "Organic waste-derived material" does not include products that contain biosolids as defined in chapter ~~((70.95J))~~ 70A.226 RCW.

(17) "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.

(18) "Pesticide" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, nematode, mollusk, fungus, weed, and any other form of plant or animal life or virus, except a virus on or in a living human being or other animal, which is normally considered to be a pest or which the director may declare to be a pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant;

(c) Any substance or mixture of substances intended to be used as a spray adjuvant; and

(d) Any other substances intended for such use as may be named by the director by rule.

(19) "Postharvest material" means any substance, material, structure, or device that is used in the postharvest handling of agricultural products.

(20) "Processing aid" means a substance that is added to a food:

(a) During processing, but is removed in some manner from the food before it is packaged in its finished form;

(b) During processing, is converted into constituents normally present in the food, and does not significantly increase the amount of the constituents naturally found in the food; and

(c) For its technical or functional effect in the processing but is present in the finished food at insignificant levels and does not have any technical or functional effect in that food.

(21) "Processor" means any person engaged in the canning, freezing, drying, dehydrating, cooking, pressing, powdering, packaging, baking, heating, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, jarring, or otherwise processing of an organic or transitional product.

(22) "Producer" means any person or organization who or which grows, raises, or produces an agricultural product.

(23) "Registrant" means the person registering a material on the brand name materials list under the provisions of this chapter.

(24) "Represent" means to hold out as or to advertise.

(25) "Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media.

(26) "Soil amendment" means any substance that is intended to improve the physical characteristics of the soil, except for fertilizers and pesticides.

(27) "Spray adjuvant" means any product intended to be used with a pesticide as an aid to the application or to the effect of the pesticide and that is in a package or container separate from the pesticide. "Spray adjuvant" includes, but is not limited to, wetting agents, spreading agents, deposit builders, adhesives, emulsifying agents, deflocculating agents, and water modifiers or similar agent with or without toxic properties of its own intended to be used with any other pesticide as an aid to its application or to its effect. "Spray adjuvant" does not include products that are only intended to mark the location where a pesticide is applied.

(28) "Transitional product" means any agricultural product that meets requirements for organic certification, except that the organic production areas have not been free of prohibited substances for thirty-six months. Use of prohibited substances must have ceased for at least twelve months prior to the harvest of a transitional product.

Sec. 13. RCW 15.115.020 and 2011 c 103 s 33 are each amended to read as follows:

The wheat and barley industries are highly regulated industries, and this chapter and the rules adopted under it are only one aspect of the regulation of those industries. Other regulations and restraints applicable to the wheat and barley industries include:

- (1) Chapter 15.04 RCW, Washington agriculture general provisions;
- (2) Chapter 15.08 RCW, horticultural pests and diseases;
- (3) Chapter 15.14 RCW, planting stock;
- (4) Chapter 15.49 RCW, seeds;
- (5) Chapter 15.54 RCW, fertilizers, minerals, and limes;
- (6) Chapter 15.58 RCW, Washington pesticide control act;
- (7) Chapter 15.64 RCW, farm marketing;
- (8) Chapter 15.83 RCW, agricultural marketing and fair practices;
- (9) Chapter 15.86 RCW, organic products;
- (10) Chapter 15.92 RCW, center for sustaining agriculture and natural resources;

- (11) Chapter 17.24 RCW, insect pests and plant diseases;
- (12) Chapter 19.94 RCW, weights and measures;
- (13) Chapter 20.01 RCW, agricultural products—commission merchants, dealers, brokers, buyers, agents;
- (14) Chapter 22.09 RCW, agricultural commodities;
- (15) Chapter 43.23 RCW, department of agriculture;
- (16) Chapter 69.04 RCW, food, drugs, cosmetics, and poisons including provisions of Title 21 U.S.C. relating to the general manufacturing practices, food labeling, food standards, food additives, and pesticide tolerances;
- (17) Chapter (~~(70.94)~~) 70A.15 RCW, Washington clean air act, agricultural burning;
- (18) 7 U.S.C., Sec. 136, federal insecticide, fungicide, and rodenticide act; and
- (19) 7 U.S.C., Sec. 1621, agricultural marketing act.

Sec. 14. RCW 18.104.020 and 2011 c 196 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) "Abandoned well" means a well that is unmaintained or is in such disrepair that it is unusable or is a risk to public health and welfare.

(2) "Constructing a well" or "construct a well" means:

- (a) Boring, digging, drilling, or excavating a well;
- (b) Installing casing, sheeting, lining, or well screens, in a well;
- (c) Drilling a geotechnical soil boring; or
- (d) Installing an environmental investigation well.

"Constructing a well" or "construct a well" includes the alteration of an existing well.

(3) "Decommission" means to fill or plug a well so that it will not produce water, serve as a channel for movement of water or pollution, or allow the entry of pollutants into the well or aquifers.

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

(5) "Dewatering well" means a cased or lined excavation or boring that is intended to withdraw or divert groundwater for the purpose of facilitating construction, stabilizing a landslide, or protecting an aquifer.

(6) "Director" means the director of the department of ecology.

(7) "Environmental investigation well" means a cased hole intended or used to extract a sample or samples of groundwater, vapor, or soil from an underground formation and which is decommissioned immediately after the sample or samples are obtained. An environmental investigation well is typically installed using direct push technology or auger boring and uses the probe, stem, auger, or rod as casing. An environmental investigation well is not a geotechnical soil boring.

(8) "Geotechnical soil boring" or "boring" means a well drilled for the purpose of obtaining soil samples or information to ascertain structural properties of the subsurface.

(9) "Ground source heat pump boring" means a vertical boring constructed for the purpose of installing a closed loop heat exchange system for a ground source heat pump.

(10) "Grounding well" means a grounding electrode installed in the earth by the use of drilling equipment to prevent buildup of voltages that may result in undue hazards to persons or equipment. Examples are anode and cathode protection wells.

(11) "Groundwater" means and includes groundwaters as defined in RCW 90.44.035.

(12) "Instrumentation well" means a well in which pneumatic or electric geotechnical or hydrological instrumentation is permanently or periodically installed to measure or monitor subsurface strength and movement. Instrumentation well includes borehole extensometers, slope indicators, pneumatic or electric pore pressure transducers, and load cells.

(13) "Monitoring well" means a well designed to obtain a representative groundwater sample or designed to measure the water level elevation in either clean or contaminated water or soil.

(14) "Observation well" means a well designed to measure the depth to the water level elevation in either clean or contaminated water or soil.

(15) "Operator" means a person who (a) is employed by a well contractor; (b) is licensed under this chapter; or (c) who controls, supervises, or oversees the construction of a well or who operates well construction equipment.

(16) "Owner" or "well owner" means the person, firm, partnership, copartnership, corporation, association, other entity, or any combination of these, who owns the property on which the well is or will be constructed or has the right to the well by means of an easement, covenant, or other enforceable legal instrument for the purpose of benefiting from the well.

(17) "Pollution" and "contamination" have the meanings provided in RCW 90.48.020.

(18) "Remediation well" means a well intended or used to withdraw groundwater or inject water, air (for air sparging), or other solutions into the subsurface for the purpose of remediating, cleaning up, or controlling potential or actual groundwater contamination.

(19) "Resource protection well" means a cased boring intended or used to collect subsurface information or to determine the existence or migration of pollutants within an underground formation. Resource protection wells include monitoring wells, observation wells, piezometers, spill response wells, remediation wells, environmental investigation wells, vapor extraction wells, ground source heat pump boring, grounding wells, and instrumentation wells.

(20) "Resource protection well contractor" means any person, firm, partnership, copartnership, corporation, association, or other entity, licensed and bonded under chapter 18.27 RCW, engaged in the business of constructing resource protection wells or geotechnical soil borings.

(21) "Water well" means any excavation that is constructed when the intended use of the well is for the location, diversion, artificial recharge, observation, monitoring, dewatering, or withdrawal of groundwater. "Water wells" include ground source heat pump borings and grounding wells.

(22) "Water well contractor" means any person, firm, partnership, copartnership, corporation, association, or other entity, licensed and bonded under chapter 18.27 RCW, engaged in the business of constructing water wells.

(23)(a) "Well" means water wells, resource protection wells, dewatering wells, and geotechnical soil borings.

(b) Well does not mean an excavation made for the purpose of:

(i) Obtaining or prospecting for oil, natural gas, geothermal resources, minerals, or products of mining, or quarrying, or for inserting media to repressure oil or natural gas bearing formations, or for storing petroleum, natural gas, or other products;

(ii) Siting and constructing an on-site sewage disposal system as defined in RCW (~~(70.118.020)~~) 70A.105.020 or a large on-site sewage system as defined in RCW (~~(70.118B.010)~~) 70A.115.010; or

(iii) Inserting any device or instrument less than ten feet in depth into the soil for the sole purpose of performing soil or water testing or analysis or establishing soil moisture content as long as there is no withdrawal of water in any quantity other than as necessary to perform the intended testing or analysis.

(24) "Well contractor" means a resource protection well contractor and a water well contractor licensed and bonded under chapter 18.27 RCW.

Sec. 15. RCW 18.106.010 and 2020 c 153 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) "Advisory board" means the state advisory board of plumbers.

(2) "Department" means the department of labor and industries.

(3) "Director" means the director of department of labor and industries.

(4) "Journey level plumber" means any person who has been issued a certificate of competency by the department of labor and industries as provided in this chapter.

(5) "Like-in-kind" means having similar characteristics such as plumbing size, type, and function, and being in the same location.

(6) "Medical gas piping" means oxygen, nitrous oxide, high pressure nitrogen, medical compressed air, and other medical gas or equipment, including but not limited to medical vacuum systems.

(7) "Medical gas piping installer" means a journey level plumber who has been issued a medical gas piping installer endorsement.

(8) "Plumbing" means that craft involved in installing, altering, repairing and renovating potable water systems, liquid waste systems, and medical gas piping systems within a building as defined by the plumbing code as adopted and amended by the state building code council, and includes all piping, fixtures, pumps, and plumbing appurtenances that are used for rainwater catchment and reclaimed water systems within a building.

(9) "Plumbing contractor" means any person, corporate or otherwise, who engages in, or offers or advertises to engage in, any plumbing work covered by the provisions of this chapter by way of trade or business, or any person, corporate or otherwise, who employs anyone, or offers or advertises to employ anyone, to engage in any plumbing work as defined in this section. The plumbing contractor is responsible for ensuring the plumbing business is operated in accordance with rules adopted under this chapter.

(10) "Plumber trainee" or "trainee" means any person who has been issued a plumbing training certificate under this chapter but has not been issued an appropriate certificate of competency for work being performed. A trainee may perform plumbing work if that person is under the appropriate level of supervision.

(11) "Residential service plumber" means anyone who has been issued a certificate of competency limited to performing residential service plumbing in an existing residential structure.

(a) In single-family dwellings and duplexes only, a residential service plumber may service, repair, or replace previously existing fixtures, piping, and fittings that are outside the interior wall or above the floor, often, but not necessarily in a like-in-kind manner. In any residential structure, a residential service plumber may perform plumbing work as needed to perform drain cleaning and may perform leak repairs on any pipe, fitting, or fixture from the leak to the next serviceable connection.

(b) A residential service plumber may directly supervise plumber trainees provided the trainees have been supervised by an appropriate journey level or specialty plumber for the trainees' first two thousand hours of training.

(c) A residential service plumber may not perform plumbing for new construction of any kind.

(12) "Residential structures" means single-family dwellings, duplexes, and multiunit buildings that do not exceed three stories.

(13) "Service plumbing" means plumbing work in which previously existing fixtures, fittings, and piping is repaired or replaced often, but not necessarily, in a like-in-kind manner, or plumbing work being performed as necessary for drain cleaning.

(14) "Specialty plumber" means anyone who has been issued a specialty certificate of competency limited to:

(a) Installation, maintenance, and repair of the plumbing of single-family dwellings, duplexes, and apartment buildings that do not exceed three stories;

(b) Maintenance and repair of backflow prevention assemblies; or

(c) A domestic water pumping system consisting of the installation, maintenance, and repair of the pressurization, treatment, and filtration components of a domestic water system consisting of: One or more pumps; pressure, storage, and other tanks; filtration and treatment equipment; if appropriate, a pitless adapter; along with valves, transducers, and other plumbing components that:

(i) Are used to acquire, treat, store, or move water suitable for either drinking or other domestic purposes, including irrigation, to: (A) A single-family dwelling, duplex, or other similar place of residence; (B) a public water system, as defined in RCW ((~~70.119.020~~) 70A.120.020) and as limited under RCW ((~~70.119.040~~) 70A.120.040); or (C) a farm owned and operated by a person whose primary residence is located within thirty miles of any part of the farm;

(ii) Are located within the interior space, including but not limited to an attic, basement, crawl space, or garage, of a residential structure, which space is separated from the living area of the residence by a lockable entrance and fixed walls, ceiling, or floor;

(iii) If located within the interior space of a residential structure, are connected to a plumbing distribution system supplied and installed into the interior space by either: (A) A person who, pursuant to RCW 18.106.070 or 18.106.090, possesses a valid temporary permit or certificate of competency as a journey level plumber, specialty plumber, or trainee, as defined in this chapter; or (B) a person exempt from the requirement to obtain a certified plumber to do such plumbing work under RCW 18.106.150.

(15) "Unsatisfied final judgment" means a judgment or final tax warrant that has not been satisfied either through payment, court-approved settlement, discharge in bankruptcy, or assignment under RCW 19.72.070.

Sec. 16. RCW 18.210.130 and 1999 c 263 s 14 are each amended to read as follows:

(1) The director shall issue a license to any applicant who meets the requirements of this chapter. The issuance of a license by the director is evidence that the person named is entitled to the rights and privileges of a licensed on-site wastewater treatment system designer as long as the license remains valid.

(2) Each person licensed under this chapter shall obtain an inking stamp, of a design authorized by the board, that contains the licensee's name and license number. Plans, specifications, and reports prepared by the registrant must be signed, dated, and stamped. Signature and stamping constitute certification by the licensee that a plan, specification, or report was prepared by or under the direct supervision of a licensee.

(3) Those persons who obtain a certificate of competency as provided in chapter ~~((70.118))~~ 70A.105 RCW do not have the privileges granted to a license holder under this chapter and do not have authority to obtain and use a stamp as described in this section.

Sec. 17. RCW 19.27.080 and 2003 c 291 s 3 are each amended to read as follows:

Nothing in this chapter affects the provisions of chapters 19.27A, 19.28, 43.22, 70.77, 70.79, 70.87, ~~((48.48))~~ 43.44, 18.20, 18.46, 18.51, 28A.305, 70.41, 70.62, 70.75, 70.108, 71.12, 74.15, ~~((70.94))~~ 70A.15, 76.04, ~~((90.76))~~ 70A.355 RCW, or RCW 28A.195.010, or grants rights to duplicate the authorities provided under chapters ~~((70.94))~~ 70A.15 or 76.04 RCW.

Sec. 18. RCW 19.27.580 and 2019 c 284 s 7 are each amended to read as follows:

The building code council shall adopt rules that permit the use of substitutes approved under RCW ~~((70.235.080))~~ 70A.45.080 and that do not require the use of substitutes that are restricted under RCW ~~((70.235.080))~~ 70A.45.080.

Sec. 19. RCW 19.27A.210 and 2019 c 285 s 3 are each amended to read as follows:

(1)(a) By November 1, 2020, the department must establish by rule a state energy performance standard for covered commercial buildings.

(b) In developing energy performance standards, the department shall seek to maximize reductions of greenhouse gas emissions from the building sector. The standard must include energy use intensity targets by building type and methods of conditional compliance that include an energy management plan, operations and maintenance program, energy efficiency audits, and investment in energy efficiency measures designed to meet the targets. The department shall use ANSI/ASHRAE/IES standard 100-2018 as an initial model for standard development. The department must update the standard by July 1, 2029, and every five years thereafter. Prior to the adoption or update of the standard, the department must identify the sources of information it relied upon, including peer-reviewed science.

(2) In establishing the standard under subsection (1) of this section, the department:

(a) Must develop energy use intensity targets that are no greater than the average energy use intensity for the covered commercial building occupancy type with adjustments for unique energy using features. The department must also develop energy use intensity targets for additional property types eligible for incentives in RCW 19.27A.220. The department must consider regional and local building energy utilization data, such as existing energy star benchmarking data, in establishing targets for the standard. Energy use intensity targets must be developed for two or more climate zones and be representative of energy use in a normal weather year;

(b) May consider building occupancy classifications from ANSI/ASHRAE/IES standard 100-2018 and the United States environmental protection agency's energy star portfolio manager when developing energy use intensity targets;

(c) May implement lower energy use intensity targets for more recently built covered commercial buildings based on the state energy code in place when the buildings were constructed;

(d)(i) Must adopt a conditional compliance method that ensures that covered commercial buildings that do not meet the specified energy use intensity targets are taking action to achieve reduction in energy use, including investment criteria for conditional compliance that ensure that energy efficiency measures identified by energy audits are implemented to achieve a covered commercial building's energy use intensity target. The investment criteria must require that a building owner adopt an implementation plan to meet the energy intensity target or implement an optimized bundle of energy efficiency measures that provides maximum energy savings without resulting in a savings-to-investment ratio of less than 1.0, except as exempted in (d)(ii) of this subsection. The implementation plan must be based on an investment grade energy audit and a life-cycle cost analysis that accounts for the period during which a bundle of measures will provide savings. The building owner's cost for implementing energy efficiency measures must reflect net cost, excluding any costs covered by utility or government grants. The implementation plan may exclude measures that do not pay for themselves over the useful life of the measure and measures excluded under (d)(ii) of this subsection. The implementation plan may include phased implementation such that the building owner is not required to replace a system or equipment before the end of the system or equipment's useful life;

(ii) For those buildings or structures that are listed in the state or national register of historic places; designated as a historic property under local or state designation law or survey; certified as a contributing resource with a national register listed or locally designated historic district; or with an opinion or certification that the property is eligible to be listed on the national or state registers of historic places either individually or as a contributing building to a historic district by the state historic preservation officer or the keeper of the national register of historic places, no individual energy efficiency requirement need be met that would compromise the historical integrity of a building or part of a building.

(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)~~) 70A.35.030.

(12) The department must adopt rules as necessary to implement this section, including but not limited to:

(a) Rules necessary to ensure timely, accurate, and complete reporting of building energy performance for all covered commercial buildings;

(b) Rules necessary to enforce the standard established under this section; and

(c) Rules that provide a mechanism for appeal of any administrative penalty imposed by the department under this section.

(13) Upon request by the department, each county assessor must provide property data from existing records to the department as necessary to implement this section.

(14) By January 15, 2022, and each year thereafter through 2029, the department must submit a report to the governor and the appropriate committees of the legislature on the implementation of the state energy performance standard established under this section. The report must include information regarding the adoption of the ANSI/ASHRAE/IES standard 100-2018 as an initial model, the financial impact to building owners required to comply with the standard, the amount of incentives provided under RCW 19.27A.220 and

19.27A.230, and any other significant information associated with the implementation of this section.

Sec. 20. RCW 19.405.090 and 2019 c 288 s 9 are each amended to read as follows:

(1)(a) An electric utility or an affected market customer that fails to meet the standards established under RCW 19.405.030(1) and 19.405.040(1) 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 RCW 19.405.040(1)(b), 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 RCW 19.405.030(1) or 19.405.040(1) 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 RCW 19.405.040(1) 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 RCW 19.405.040(1), 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 RCW 19.405.080.

(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 RCW 19.405.080.

(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 RCW 19.405.030(1) and 19.405.040(1);

(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 RCW 19.405.040(1)(b).

(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)~~) 70A.35.030.

(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 RCW 19.405.080 demonstrates adverse system reliability impacts from the implementation of RCW 19.405.040 and 19.405.050, 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 May 7, 2019, to meet the requirements of RCW 19.405.040 and

19.405.050, 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 May 7, 2019, must serve those premises in a manner that complies with the requirements of chapter 288, Laws of 2019 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.

Sec. 21. RCW 28B.10.926 and 2013 c 291 s 26 are each amended to read as follows:

(1) Following the inspection required under RCW 28B.10.925 and prior to transferring ownership of an institution-owned vessel, the institution of higher education shall obtain the following from the transferee:

(a) The purposes for which the transferee intends to use the vessel; and

(b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the institution of higher education.

(2)(a) The institution of higher education shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW (~~(70.105D.020)~~) 70A.305.020.

(b) However, the institution of higher education may transfer a vessel with:

(i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the institution of higher education's satisfaction that the container's or material's presence is consistent with the anticipated use of the vessel; and

(ii) A reasonable amount of fuel as determined by the institution of higher education, based on factors including the vessel's size, condition, and anticipated use of the vessel including initial destination following transfer.

(c) The institution of higher education may consult with the department of ecology in carrying out the requirements of this subsection.

(3) Prior to sale, and unless the vessel has a title or valid marine document, the institution of higher education is required to apply for a certificate of title for the vessel under RCW 88.02.510 and register the vessel under RCW 88.02.550.

Sec. 22. RCW 28B.130.010 and 1993 c 447 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) "Transportation fee" means the fee charged to employees and students at institutions of higher education for the purposes provided in RCW 28B.130.020.

(2) "Transportation demand management program" means the set of strategies adopted by an institution of higher education to reduce the number of

single-occupant vehicles traveling to its campus. These strategies may include but are not limited to those identified in RCW ((70.94.531)) 70A.15.4040.

Sec. 23. RCW 34.05.272 and 2019 c 292 s 11 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 ((70.365)) 70A.350 RCW.

(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 RCW ((70.365.040)) 70A.350.040(1) (b) or (c), 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 (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.

Sec. 24. RCW 35A.56.010 and 2015 c 53 s 59 are each amended to read as follows:

Except as otherwise provided in this title, state laws relating to special service or taxing districts shall apply to, grant powers, and impose duties upon code cities and their officers to the same extent as such laws apply to and affect other classes of cities and towns and their employees, including, without limitation, the following: (1) Chapter ~~((70.94))~~ 70A.15 RCW, relating to air pollution control; (2) chapter 68.52 RCW, relating to cemetery districts; (3) chapter 29A.28 RCW, relating to congressional districts; (4) chapters 14.07 and 14.08 RCW, relating to municipal airport districts; (5) chapter 36.88 RCW, relating to county road improvement districts; (6) Title 85 RCW, relating to diking districts, drainage districts, and drainage improvement districts; (7) chapter 36.54 RCW, relating to ~~((ferry districts))~~ county-owned ferries; (8) Title 52 RCW, relating to fire protection districts; (9) Title 86 RCW, relating to flood control districts and flood control; (10) chapter 70.46 RCW, relating to health districts; (11) chapters 87.03 through 87.84 and 89.12 RCW, relating to irrigation districts; (12) chapter 35.61 RCW, relating to metropolitan park districts; (13) chapter 35.58 RCW, relating to metropolitan municipalities; (14) chapter 17.28 RCW, relating to mosquito control districts; (15) chapter 17.12 RCW, relating to agricultural pest districts; (16) Title 53 RCW, relating to port districts; (17) chapter 70.44 RCW, relating to public hospital districts; (18) Title 54 RCW, relating to public utility districts; (19) chapter 91.08 RCW, relating to public waterway districts; (20) chapter 89.12 RCW, relating to reclamation districts; (21) chapters 57.02 through 57.36 RCW, relating to water-sewer districts; and (22) chapter 17.04 RCW, relating to weed districts.

Sec. 25. RCW 36.32.265 and 1989 c 399 s 8 are each amended to read as follows:

RCW 36.32.240, 36.32.250, and 36.32.260 do not apply to the selection of persons or entities to construct or develop water pollution control facilities or to provide water pollution control services under RCW ~~((70.150.040))~~ 70A.140.040 or the selection of persons or entities to construct or develop solid waste handling facilities or to provide solid waste handling services under RCW 36.58.090.

Sec. 26. RCW 39.04.175 and 1989 c 399 s 11 are each amended to read as follows:

This chapter does not apply to the selection of persons or entities to construct or develop water pollution control facilities or to provide water pollution control services under RCW ~~((70.150.040))~~ 70A.140.040 or the selection of persons or entities to construct or develop solid waste handling

facilities or to provide solid waste handling services under RCW 35.21.156 or under RCW 36.58.090.

Sec. 27. RCW 39.26.265 and 2011 1st sp.s. c 43 s 229 are each amended to read as follows:

(1) The department shall establish purchasing and procurement policies that establish a preference for electronic products that meet environmental performance standards relating to the reduction or elimination of hazardous materials.

(2) The department shall ensure that their surplus electronic products, other than those sold individually to private citizens, are managed only by registered transporters and by processors meeting the requirements of RCW ((70.95N.250)) 70A.500.250.

(3) The department shall ensure that their surplus electronic products are directed to legal secondary materials markets by requiring a chain of custody record that documents to whom the products were initially delivered through to the end use manufacturer.

Sec. 28. RCW 39.26.310 and 2019 c 284 s 9 are each amended 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 RCW ((70.235.080)) 70A.45.080;

(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 July 28, 2019.

(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.

Sec. 29. RCW 39.34.190 and 2008 c 301 s 26 are each amended to read as follows:

(1) The legislative authority of a city or county and the governing body of any special purpose district enumerated in subsection (2) of this section may authorize up to ten percent of its water-related revenues to be expended in the implementation of watershed management plan projects or activities that are in addition to the county's, city's, or district's existing water-related services or activities. Such limitation on expenditures shall not apply to water-related

revenues of a public utility district organized according to Title 54 RCW. Water-related revenues include rates, charges, and fees for the provision of services relating to water supply, treatment, distribution, and management generally, and those general revenues of the local government that are expended for water management purposes. A local government may not expend for this purpose any revenues that were authorized by voter approval for other specified purposes or that are specifically dedicated to the repayment of municipal bonds or other debt instruments.

(2) The following special purpose districts may exercise the authority provided by this section:

(a) Water districts, sewer districts, and water-sewer districts organized under Title 57 RCW;

(b) Public utility districts organized under Title 54 RCW;

(c) Irrigation, reclamation, conservation, and similar districts organized under Titles 87 and 89 RCW;

(d) Port districts organized under Title 53 RCW;

(e) Diking, drainage, and similar districts organized under Title 85 RCW;

(f) Flood control and similar districts organized under Title 86 RCW;

(g) Lake or beach management districts organized under chapter 36.61 RCW;

(h) Aquifer protection areas organized under chapter 36.36 RCW; and

(i) Shellfish protection districts organized under chapter 90.72 RCW.

(3) The authority for expenditure of local government revenues provided by this section shall be applicable broadly to the implementation of watershed management plans addressing water supply, water transmission, water quality treatment or protection, or any other water-related purposes. Such plans include but are not limited to plans developed under the following authorities:

(a) Watershed plans developed under chapter 90.82 RCW;

(b) Salmon recovery plans developed under chapter 77.85 RCW;

(c) Watershed management elements of comprehensive land use plans developed under the growth management act, chapter 36.70A RCW;

(d) Watershed management elements of shoreline master programs developed under the shoreline management act, chapter 90.58 RCW;

(e) Nonpoint pollution action plans developed under the Puget Sound water quality management planning authorities of chapter 90.71 RCW and chapter 400-12 WAC;

(f) Other comprehensive management plans addressing watershed health at a WRIA level or sub-WRIA basin drainage level;

(g) Coordinated water system plans under chapter (~~(70.116)~~) 70A.100 RCW and similar regional plans for water supply; and

(h) Any combination of the foregoing plans in an integrated watershed management plan.

(4) The authority provided by this section to expend revenues for watershed management plan implementation shall be construed broadly to include, but not be limited to:

(a) The coordination and oversight of plan implementation, including funding a watershed management partnership for this purpose;

(b) Technical support, monitoring, and data collection and analysis;

(c) The design, development, construction, and operation of projects included in the plan; and

(d) Conducting activities and programs included as elements in the plan.

Sec. 30. RCW 43.01.225 and 2011 1st sp.s. c 43 s 253 are each amended to read as follows:

There is hereby established an account in the state treasury to be known as the "state vehicle parking account." All parking rental income resulting from parking fees established by the department of enterprise services under RCW 46.08.172 at state-owned or leased property shall be deposited in the "state vehicle parking account." Revenue deposited in the "state vehicle parking account" shall be first applied to pledged purposes. Unpledged parking revenues deposited in the "state vehicle parking account" may be used to:

(1) Pay costs incurred in the operation, maintenance, regulation, and enforcement of vehicle parking and parking facilities;

(2) Support the lease costs and/or capital investment costs of vehicle parking and parking facilities; and

(3) Support agency commute trip reduction programs under RCW ((70.94.521 through 70.94.551)) 70A.15.4000 through 70A.15.4100.

Sec. 31. RCW 43.01.230 and 1995 c 215 s 1 are each amended to read as follows:

State agencies may, under the internal revenue code rules, use public funds to financially assist agency-approved incentives for alternative commute modes, including but not limited to carpools, vanpools, purchase of transit and ferry passes, and guaranteed ride home programs, if the financial assistance is an element of the agency's commute trip reduction program as required under RCW ((70.94.521 through 70.94.551)) 70A.15.4000 through 70A.15.4100. This section does not permit any payment for the use of state-owned vehicles for commuter ride sharing.

Sec. 32. RCW 43.01.240 and 2015 c 225 s 58 are each amended to read as follows:

(1) There is hereby established an account in the state treasury to be known as the state agency parking account. All parking income collected from the fees imposed by state agencies on parking spaces at state-owned or leased facilities, including the capitol campus, shall be deposited in the state agency parking account. Only the office of financial management may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. No agency may receive an allotment greater than the amount of revenue deposited into the state agency parking account.

(2) An agency may, as an element of the agency's commute trip reduction program to achieve the goals set forth in RCW ((70.94.527)) 70A.15.4020, impose parking rental fees at state-owned and leased properties. These fees will be deposited in the state agency parking account. Each agency shall establish a committee to advise the agency director on parking rental fees, taking into account the market rate of comparable, privately owned rental parking in each region. The agency shall solicit representation of the employee population including, but not limited to, management, administrative staff, production workers, and state employee bargaining units. Funds shall be used by agencies

to: (a) Support the agencies' commute trip reduction program under RCW ((70.94.521 through 70.94.551)) 70A.15.4000 through 70A.15.4100; (b) support the agencies' parking program; or (c) support the lease or ownership costs for the agencies' parking facilities.

(3) In order to reduce the state's subsidization of employee parking, after July 1997 agencies shall not enter into leases for employee parking in excess of building code requirements, except as authorized by the director of enterprise services. In situations where there are fewer parking spaces than employees at a worksite, parking must be allocated equitably, with no special preference given to managers.

Sec. 33. RCW 43.19.623 and 1993 c 394 s 3 are each amended to read as follows:

Pursuant to policies and regulations promulgated by the office of financial management, an elected state officer or delegate or a state agency director or delegate may permit an employee to commute in a state-owned or leased vehicle if such travel is on official business, as determined in accordance with RCW ((43.41.130)) 43.19.622, and is determined to be economical and advantageous to the state, or as part of a commute trip reduction program as required by RCW ((70.94.551)) 70A.15.4100.

Sec. 34. RCW 43.19.637 and 2002 c 285 s 3 are each amended to read as follows:

(1) At least thirty percent of all new vehicles purchased through a state contract shall be clean-fuel vehicles.

(2) The percentage of clean-fuel vehicles purchased through a state contract shall increase at the rate of five percent each year.

(3) In meeting the procurement requirement established in this section, preference shall be given to vehicles designed to operate exclusively on clean fuels. In the event that vehicles designed to operate exclusively on clean fuels are not available or would not meet the operational requirements for which a vehicle is to be procured, conventionally powered vehicles may be converted to clean fuel or dual fuel use to meet the requirements of this section.

(4) Fuel purchased through a state contract shall be a clean fuel when the fuel is purchased for the operation of a clean-fuel vehicle.

(5)(a) Weight classes are established by the following motor vehicle types:

(i) Passenger cars;

(ii) Light duty trucks, trucks with a gross vehicle weight rating by the vehicle manufacturer of less than eight thousand five hundred pounds;

(iii) Heavy duty trucks, trucks with a gross vehicle weight rating by the vehicle manufacturer of eight thousand five hundred pounds or more.

(b) This subsection does not place an obligation upon the state or its political subdivisions to purchase vehicles in any number or weight class other than to meet the percent procurement requirement.

(6) The provisions for purchasing clean-fuel vehicles under subsections (1) and (2) of this section are intended as minimum levels. The department should seek to increase the purchasing levels of clean-fuel vehicles above the minimum. The department must also investigate all opportunities to aggregate their purchasing with local governments to determine whether or not they can lower

their costs and make it cost-efficient to increase the percentage of clean-fuel or high gas mileage vehicles in both the state and local fleets.

(7) For the purposes of this section, "clean fuels" and "clean-fuel vehicles" shall be those fuels and vehicles meeting the specifications provided for in RCW ((70.120.240)) 70A.25.120.

Sec. 35. RCW 43.19.800 and 2013 c 291 s 6 are each amended to read as follows:

(1) Following the inspection required under RCW 43.19.1919 and prior to transferring ownership of a department-owned vessel, the department shall obtain the following from the transferee:

(a) The purposes for which the transferee intends to use the vessel; and

(b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the department.

(2)(a) The department shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW ((70.105D.020)) 70A.305.020.

(b) However, the department may transfer a vessel with:

(i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the department's satisfaction that the container's or material's presence is consistent with the anticipated use of the vessel; and

(ii) A reasonable amount of fuel as determined by the department, based on factors including the vessel's size, condition, and anticipated use of the vessel, including initial destination following transfer.

(c) The department may consult with the department of ecology in carrying out the requirements of this subsection (2).

(3) Prior to sale, and unless the vessel has a title or valid marine document, the department is required to apply for a certificate of title for the vessel under RCW 88.02.510 and register the vessel under RCW 88.02.550.

Sec. 36. RCW 43.19A.010 and 2011 1st sp.s. c 43 s 250 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) "Biosolids" means municipal sewage sludge or septic tank septage sludge that meets the requirements of chapter ((70.951)) 70A.226 RCW.

(2) "Compost products" means mulch, soil amendments, ground cover, or other landscaping material derived from the biological or mechanical conversion of biosolids or cellulose-containing waste materials.

(3) "Department" means the department of enterprise services.

(4) "Director" means the director of the department of enterprise services.

(5) "Local government" means a city, town, county, special purpose district, school district, or other municipal corporation.

(6) "Lubricating oil" means petroleum-based oils for reducing friction in engine parts and other mechanical parts.

(7) "Mixed waste paper" means assorted low-value grades of paper that have not been separated into individual grades of paper at the point of collection.

(8) "Municipal sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a publicly owned wastewater treatment plant.

(9) "Paper and paper products" means all items manufactured from paper or paperboard.

(10) "Postconsumer waste" means a material or product that has served its intended use and has been discarded for disposal or recovery by a final consumer.

(11) "Procurement officer" means the person that has the primary responsibility for procurement of materials or products.

(12) "Recycled content product" or "recycled product" means a product containing recycled materials.

(13) "Recycled materials" means waste materials and by-products that have been recovered or diverted from solid waste and that can be utilized in place of a raw or virgin material in manufacturing a product and consists of materials derived from postconsumer waste, manufacturing waste, industrial scrap, agricultural wastes, and other items, all of which can be used in the manufacture of new or recycled products.

(14) "Re-refined oils" means used lubricating oils from which the physical and chemical contaminants acquired through previous use have been removed through a refining process. Re-refining may include distillation, hydrotreating, or treatments employing acid, caustic, solvent, clay, or other chemicals, or other physical treatments other than those used in reclaiming.

(15) "State agency" means all units of state government, including divisions of the governor's office, the legislature, the judiciary, state agencies and departments, correctional institutions, vocational technical institutions, and universities and colleges.

(16) "USEPA product standards" means the product standards of the United States environmental protection agency for recycled content published in the Code of Federal Regulations.

Sec. 37. RCW 43.20.050 and 2011 c 27 s 1 are each amended to read as follows:

(1) The state board of health shall provide a forum for the development of public health policy in Washington state. It is authorized to recommend to the secretary means for obtaining appropriate citizen and professional involvement in all public health policy formulation and other matters related to the powers and duties of the department. It is further empowered to hold hearings and explore ways to improve the health status of the citizenry.

In fulfilling its responsibilities under this subsection, the state board may create ad hoc committees or other such committees of limited duration as necessary.

(2) In order to protect public health, the state board of health shall:

(a) Adopt rules for group A public water systems, as defined in RCW ((70.119A.020)) 70A.125.010, necessary to assure safe and reliable public drinking water and to protect the public health. Such rules shall establish requirements regarding:

(i) The design and construction of public water system facilities, including proper sizing of pipes and storage for the number and type of customers;

(ii) Drinking water quality standards, monitoring requirements, and laboratory certification requirements;

(iii) Public water system management and reporting requirements;

(iv) Public water system planning and emergency response requirements;

(v) Public water system operation and maintenance requirements;

(vi) Water quality, reliability, and management of existing but inadequate public water systems; and

(vii) Quality standards for the source or supply, or both source and supply, of water for bottled water plants;

(b) Adopt rules as necessary for group B public water systems, as defined in RCW ((70.119A.020)) 70A.125.010. The rules shall, at a minimum, establish requirements regarding the initial design and construction of a public water system. The state board of health rules may waive some or all requirements for group B public water systems with fewer than five connections;

(c) Adopt rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of human and animal excreta and animal remains;

(d) Adopt rules controlling public health related to environmental conditions including but not limited to heating, lighting, ventilation, sanitary facilities, and cleanliness in public facilities including but not limited to food service establishments, schools, recreational facilities, and transient accommodations;

(e) Adopt rules for the imposition and use of isolation and quarantine;

(f) Adopt rules for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness, and rules governing the receipt and conveyance of remains of deceased persons, and such other sanitary matters as may best be controlled by universal rule; and

(g) Adopt rules for accessing existing databases for the purposes of performing health related research.

(3) The state board shall adopt rules for the design, construction, installation, operation, and maintenance of those on-site sewage systems with design flows of less than three thousand five hundred gallons per day.

(4) The state board may delegate any of its rule-adopting authority to the secretary and rescind such delegated authority.

(5) All local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employees of the state, or any county, city, or township thereof, shall enforce all rules adopted by the state board of health. In the event of failure or refusal on the part of any member of such boards or any other official or person mentioned in this section to so act, he or she shall be subject to a fine of not less than fifty dollars, upon first conviction, and not less than one hundred dollars upon second conviction.

(6) The state board may advise the secretary on health policy issues pertaining to the department of health and the state.

Sec. 38. RCW 43.20.065 and 2019 c 21 s 2 are each amended to read as follows:

(1) Rules adopted by the state board under RCW 43.20.050(3) regarding failures of on-site sewage systems must:

(a) Give first priority to allowing repair and second priority to allowing replacement of an existing conventional on-site sewage system, consisting of a septic tank and drainfield, with a similar conventional system;

(b) Not impose or allow the imposition of more stringent performance requirements of equivalent on-site sewage systems on private entities than public entities; and

(c) Allow a system to be repaired using the least expensive alternative that meets standards and is likely to provide comparable or better long-term sewage treatment and effluent dispersal outcomes.

(2) Rules adopted by the state board under RCW 43.20.050(3) regarding inspections must:

(a) Require any inspection of an on-site sewage system carried out by a certified professional inspector or public agency to be coordinated with the owner of the on-site sewage system prior to accessing the on-site sewage system;

(b) Require any inspection of an on-site sewage system carried out by a certified professional inspector or responsible public agency to be authorized by the owner of the on-site sewage system prior to accessing the on-site sewage system;

(c) Allow, in cases where an inspection has not been authorized by a property owner, the local health jurisdiction to follow the procedures established for an administrative search warrant in RCW (~~(70.118.030)~~) 70A.105.030; and

(d) Forbid local health jurisdictions from requiring private property owners to grant inspection or maintenance easements for on-site sewage systems as a condition of permit issuance for on-site sewage systems that are located on a single property and service a single dwelling unit.

Sec. 39. RCW 43.21K.010 and 2003 c 39 s 25 are each amended to read as follows:

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

(1) "State, regional, or local agency" means an agency, board, department, authority, or commission that administers environmental laws.

(2) "Coordinating agency" means the state, regional, or local agency with the primary regulatory responsibility for the proposed environmental excellence program agreement. If multiple agencies have jurisdiction to administer state environmental laws affected by an environmental excellence agreement, the department of ecology shall designate or act as the coordinating agency.

(3) "Director" means the individual or body of individuals in whom the ultimate legal authority of an agency is vested by any provision of law. If the agency head is a body of individuals, a majority of those individuals constitutes the director.

(4) "Environmental laws" means chapters 43.21A, (~~(70.94, 70.95, 70.105, 70.119A)~~) 70A.15, 70A.205, 70A.300, 70A.125, 77.55, 90.48, 90.52, 90.58, 90.64, and 90.71 RCW, and RCW 90.54.020(3)(b) and rules adopted under those chapters and section. The term environmental laws as used in this chapter does not include any provision of the Revised Code of Washington, or of any municipal ordinance or enactment, that regulates the selection of a location for a new facility.

(5) "Facility" means a site or activity that is regulated under any of the provisions of the environmental laws.

(6) "Legal requirement" includes any provision of an environmental law, rule, order, or permit.

(7) "Sponsor" means the owner or operator of a facility, including a municipal corporation, subject to regulation under the environmental laws of the state of Washington, or an authorized representative of the owner or operator, that submits a proposal for an environmental excellence program agreement.

(8) "Stakeholder" means a person who has a direct interest in the proposed environmental excellence program agreement or who represents a public interest in the proposed environmental excellence program agreement. Stakeholders may include communities near the project, local or state governments, permittees, businesses, environmental and other public interest groups, employees or employee representatives, or other persons.

Sec. 40. RCW 43.21K.020 and 1997 c 381 s 3 are each amended to read as follows:

An environmental excellence program agreement entered into under this chapter must achieve more effective or efficient environmental results than the results that would be otherwise achieved. The basis for comparison shall be a reasonable estimate of the overall impact of the participating facility on the environment in the absence of an environmental excellence program agreement. More effective environmental results are results that are better overall than those that would be achieved under the legal requirements superseded or replaced by the agreement. More efficient environmental results are results that are achieved at reduced cost but do not decrease the overall environmental results achieved by the participating facility. An environmental excellence program agreement may not authorize either (1) the release of water pollutants that will cause to be exceeded, at points of compliance in the ambient environment established pursuant to law, numeric surface water or groundwater quality criteria or numeric sediment quality criteria adopted as rules under chapter 90.48 RCW; or (2) the emission of any air contaminants that will cause to be exceeded any air quality standard as defined in RCW (~~(70.94.030)~~) 70A.15.1030(3); or (3) a decrease in the overall environmental results achieved by the participating facility compared with results achieved over a representative period before the date on which the agreement is proposed by the sponsor. However, an environmental excellence program agreement may authorize reasonable increases in the release of pollutants to permit increases in facility production or facility expansion and modification.

Sec. 41. RCW 43.21K.030 and 1997 c 381 s 4 are each amended to read as follows:

(1) The director of a state, regional, or local agency may enter into an environmental excellence program agreement with any sponsor, even if one or more of the terms of the environmental excellence program agreement would be inconsistent with an otherwise applicable legal requirement. An environmental excellence program agreement must meet the requirements of RCW 43.21K.020. Otherwise applicable legal requirements identified according to RCW 43.21K.060(1) shall be superseded and replaced in accordance with RCW 43.21K.080.

(2) The director of a state, regional, or local agency may enter into an environmental excellence program agreement only to the extent the state, regional, or local agency has jurisdiction to administer state environmental laws either directly or indirectly through the adoption of rules.

(3) Where a sponsor proposes an environmental excellence program agreement that would affect legal requirements applicable to the covered facility that are administered by more than one state, regional, or local agency, the coordinating agency shall take the lead in developing the environmental excellence program agreement with the sponsor and other agencies administering legal requirements applicable to the covered facility and affected by the agreement. The environmental excellence program agreement does not become effective until the agreement is approved by the director of each agency administering legal requirements identified according to RCW 43.21K.060(1).

(4) No director may enter into an environmental excellence program agreement applicable to a remedial action conducted under the Washington model toxics control act, chapter ~~((70.105D))~~ 70A.305 RCW, or the federal comprehensive environmental response, compensation and liability act (42 U.S.C. Sec. 9601 et seq.). No action taken under this chapter shall be deemed a waiver of any applicable, relevant, or appropriate requirements for any remedial action conducted under the Washington model toxics control act or the federal comprehensive environmental response, compensation and liability act.

(5) The directors of state, regional, or local agencies shall not enter into an environmental excellence program agreement or a modification of an environmental excellence program agreement containing terms affecting legal requirements adopted to comply with provisions of a federal regulatory program and to which the responsible federal agency objects after notice under the terms of RCW 43.21K.070(4).

(6) The directors of regional or local governments may not enter into an environmental excellence program agreement or a modification of an environmental excellence program agreement containing terms affecting legal requirements that are subject to review or appeal by a state agency, including but not limited to chapters ~~((70.94, 70.95))~~ 70A.15, 70A.205, and 90.58 RCW, and to which the responsible state agency objects after notice is given under the terms of RCW 43.21K.070(4).

Sec. 42. RCW 43.30.570 and 2013 c 291 s 8 are each amended to read as follows:

(1) Following the inspection required under RCW 43.30.565 and prior to transferring ownership of a department-owned vessel, the department shall obtain the following from the transferee:

(a) The purposes for which the transferee intends to use the vessel; and

(b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the department.

(2)(a) The department shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW ~~((70.105D.020))~~ 70A.305.020.

(b) However, the department may transfer a vessel with:

(i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the department's satisfaction that the

container's or material's presence is consistent with the anticipated use of the vessel; and

(ii) A reasonable amount of fuel as determined by the department, based on factors including the vessel's size, condition, and anticipated use of the vessel, including initial destination following transfer.

(c) The department may consult with the department of ecology in carrying out the requirements of this subsection.

(3) Prior to sale, and unless the vessel has a title or valid marine document, the department is required to apply for a certificate of title for the vessel under RCW 88.02.510 and register the vessel under RCW 88.02.550.

Sec. 43. RCW 43.42.070 and 2012 c 196 s 4 are each amended to read as follows:

(1) The office may enter into cost-reimbursement agreements with a project proponent to recover from the project proponent the reasonable costs incurred by the office in carrying out the provisions of this chapter. The agreement must include provisions for covering the costs incurred by the permit agencies that are participating in the cost-reimbursement project and carrying out permit processing or project review tasks referenced in the cost-reimbursement agreement.

(2) The office must maintain policies or guidelines for coordinating cost-reimbursement agreements with participating agencies, project proponents, and independent consultants. Policies or guidelines must ensure that, in developing cost-reimbursement agreements, conflicts of interest are eliminated. The policies must also support effective use of cost-reimbursement resources to address staffing and capacity limitations as may be relevant within the office or participating permit agencies.

(3) For fully coordinated permit processes and priority economic recovery projects selected pursuant to this section, the office must coordinate the negotiation of all cost-reimbursement agreements executed under RCW 43.21A.690, 43.30.490, 43.70.630, 43.300.080, and (~~(70.94.085)~~) 70A.15.1570. The office, project proponent, and participating permit agencies must be signatories to the cost-reimbursement agreement or agreements. Each participating permit agency must manage performance of its portion of the cost-reimbursement agreement. Independent consultants hired under a cost-reimbursement agreement must report directly to the hiring office or participating permit agency. Any cost-reimbursement agreement must require that final decisions are made by the participating permit agency and not by a hired independent consultant.

(4) For any project using cost reimbursement, the cost-reimbursement agreement must require the office and participating permit agencies to develop and periodically update a project work plan, which the office must provide on the internet and share with each party to the agreement.

(5)(a) The cost-reimbursement agreement must identify the proposed project, the desired outcomes, and the maximum costs for work to be conducted under the agreement. The desired outcomes must refer to the decision-making process and may not prejudice or predetermine whether decisions will be to approve or deny any required permit or other application. Each participating permit agency must agree to give priority to the cost-reimbursement project but

may in no way reduce or eliminate regulatory requirements as part of the priority review.

(b) Reasonable costs are determined based on time and materials estimates with a provision for contingencies, or set as a flat fee tied to a reasonable estimate of staff hours required.

(c) The cost-reimbursement agreement may include deliverables and schedules for invoicing and reimbursement. The office may require advance payment of some or all of the agreed reimbursement, to be held in reserve and distributed to participating permit agencies and the office upon approval of invoices by the project proponent. The project proponent has thirty days to request additional information or challenge an invoice. If an invoice is challenged, the office must respond and attempt to resolve the challenge within thirty days. If the office is unable to resolve the challenge within thirty days, the challenge must be submitted to the office of financial management. A decision on such a challenge must be made by the office of financial management and approved by the director of the office of financial management and is binding on the parties.

(d) Upon request, the office must verify whether participating permit agencies have met the obligations contained in the project work plan and cost-reimbursement agreement.

(e) If a party to the cost-reimbursement agreement foresees, at any time, that it will be unable to meet its obligations under the agreement, it must notify the office and state the reasons, along with proposals for resolving the problems. The office must notify the other parties to the cost-reimbursement agreement and seek to resolve the problems by adjusting invoices, deliverables, or the project work plan, or through some other accommodation.

Sec. 44. RCW 43.70.080 and 2018 c 201 s 8009 are each amended to read as follows:

The powers and duties of the department of social and health services and the secretary of social and health services under the following statutes are hereby transferred to the department of health and the secretary of health: Chapters 16.70, 18.46, 18.71, 18.73, 18.76, 69.30, 70.28, 70.30, 70.50, 70.58, 70.62, 70.83, 70.90, (~~70.98~~) 70A.388, 70.104, (~~70.116, 70.118, 70.119, 70.119A, 70.121~~) 70A.100, 70A.105, 70A.120, 70A.125, 70A.310, 70.127, (~~70.142~~) 70A.130, and 80.50 RCW. More specifically, the following programs and services presently administered by the department of social and health services are hereby transferred to the department of health:

(1) Personal health and protection programs and related management and support services, including, but not limited to: Immunizations; tuberculosis; sexually transmitted diseases; AIDS; diabetes control; primary health care; cardiovascular risk reduction; kidney disease; regional genetic services; newborn metabolic screening; sentinel birth defects; cytogenetics; communicable disease epidemiology; and chronic disease epidemiology;

(2) Environmental health protection services and related management and support services, including, but not limited to: Radiation, including X-ray control, radioactive materials, uranium mills, low-level waste, emergency response and reactor safety, and environmental radiation protection; drinking water; toxic substances; on-site sewage; recreational water contact facilities;

food services sanitation; shellfish; and general environmental health services, including schools, vectors, parks, and camps;

(3) Public health laboratory;

(4) Public health support services, including, but not limited to: Vital records; health data; local public health services support; and health education and information;

(5) Licensing and certification services including, but not limited to: Behavioral health agencies, agencies providing problem and pathological gambling treatment, health and personal care facility survey, construction review, emergency medical services, laboratory quality assurance, and accommodations surveys; and

(6) Effective January 1, 1991, parent and child health services and related management support services, including, but not limited to: Maternal and infant health; child health; parental health; nutrition; services for children with disabilities; family planning; adolescent pregnancy services; high priority infant tracking; early intervention; parenting education; prenatal regionalization; and power and duties under RCW 43.20A.635. The director of the office of financial management may recommend to the legislature a delay in this transfer, if it is determined that this time frame is not adequate.

Sec. 45. RCW 43.70.660 and 2008 c 288 s 6 are each amended to read as follows:

(1) The legislature authorizes the secretary to establish and maintain a product safety education campaign to promote greater awareness of products designed to be used by infants and children that:

(a) Are recalled by the United States consumer products safety commission;

(b) Do not meet federal safety regulations and voluntary safety standards;

(c) Are unsafe or illegal to place into the stream of commerce under the infant crib safety act, chapter 70.111 RCW; or

(d) Contain chemicals of high concern for children as identified under RCW (~~70.240.030~~) 70A.430.040.

(2) The department shall make reasonable efforts to ensure that this infant and children product safety education campaign reaches the target population. The target population for this campaign includes, but is not limited to, parents, foster parents and other caregivers, child care providers, consignment and resale stores selling infant and child products, and charitable and governmental entities serving infants, children, and families.

(3) The secretary may utilize a combination of methods to achieve this outreach and education goal, including but not limited to print and electronic media. The secretary may operate the campaign or may contract with a vendor.

(4) The department shall coordinate this infant and children product safety education campaign with child-serving entities including, but not limited to, hospitals, birthing centers, midwives, pediatricians, obstetricians, family practice physicians, governmental and private entities serving infants, children, and families, and relevant manufacturers.

(5) The department shall coordinate with other agencies and entities to eliminate duplication of effort in disseminating infant and children consumer product safety information.

(6) The department may receive funding for this infant and children product safety education effort from federal, state, and local governmental entities, child-serving foundations, or other private sources.

Sec. 46. RCW 43.83.350 and 2015 1st sp.s. c 4 s 40 are each amended to read as follows:

(1) The state and local improvements revolving account, Waste Disposal Facilities, 1980 is hereby created in the state treasury and shall be used exclusively for the purpose of providing funds to public bodies for the planning, design, acquisition, construction, and improvement of public waste disposal and management facilities, or for purposes of assisting a public body to obtain an ownership interest in waste disposal and management facilities and/or to defray a part of the payments made by a public body to a service provider under a service agreement entered into pursuant to RCW (~~(70.150.060)~~) 70A.140.060, in this state.

(2) "Waste disposal and management facilities" means any facilities or systems for the control, collection, storage, treatment, disposal, recycling, or recovery of nonradioactive liquid wastes or nonradioactive solid wastes, or a combination thereof, including, but not limited to, sanitary sewage, stormwater, residential, industrial, commercial, and agricultural wastes, and concentrations of organic sediments waste, inorganic nutrients, and toxic materials which are causing environmental degradation and loss of the beneficial use of the environment, and material segregated into recyclables and nonrecyclables. Waste disposal and management facilities may include all equipment, utilities, structures, real property, and interest in and improvements on real property necessary for or incidental to such purpose. As used in this chapter, the phrase "waste disposal and management facilities" shall not include the acquisition of equipment used to collect residential or commercial garbage.

(3) "Public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal corporation thereof, an agency of the federal government, and those Indian tribes now or hereafter recognized as such by the federal government.

(4) "Control" means those measures necessary to maintain and/or restore the beneficial uses of polluted land and water resources including, but not limited to, the diversion, sedimentation, flocculation, dredge and disposal, or containment or treatment of nutrients, organic waste, and toxic material to restore the beneficial use of the state's land and water resources and prevent the continued pollution of these resources.

(5) "Planning" means the development of comprehensive plans for the purpose of identifying statewide or regional needs for specific waste disposal facilities as well as the development of plans specific to a particular project.

Sec. 47. RCW 43.131.421 and 2014 c 119 s 7 are each amended to read as follows:

The mercury-containing lights product stewardship program as established under chapter (~~(70.275)~~) 70A.505 RCW is terminated July 1, 2025, as provided in RCW 43.131.422.

Sec. 48. RCW 43.131.422 and 2017 c 254 s 4 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective July 1, 2026:

(1) RCW ((~~70.275.010~~)) 70A.505.010 (Findings—Purpose) and 2010 c 130 s 1;

(2) RCW ((~~70.275.020~~)) 70A.505.020 (Definitions) and 2014 c 119 s 2 & 2010 c 130 s 2;

(3) RCW ((~~70.275.030~~)) 70A.505.030 (Product stewardship program) and 2014 c 119 s 3 & 2010 c 130 s 3;

(4) RCW ((~~70.275.040~~)) 70A.505.040 (Submission of proposed product stewardship plans—Department to establish rules—Public review—Plan update—Annual report) and 2017 c 254 s 2, 2014 c 119 s 4, & 2010 c 130 s 4;

(5) RCW ((~~70.275.050~~)) 70A.505.050 (Financing the mercury-containing light recycling program) and 2017 c 254 s 1, 2014 c 119 s 5, & 2010 c 130 s 5;

(6) RCW ((~~70.275.060~~)) 70A.505.060 (Collection and management of mercury) and 2010 c 130 s 6;

(7) RCW ((~~70.275.070~~)) 70A.505.070 (Collectors of unwanted mercury-containing lights—Duties) and 2010 c 130 s 7;

(8) RCW ((~~70.275.090~~)) 70A.505.090 (Producers must participate in an approved product stewardship program) and 2010 c 130 s 9;

(9) RCW ((~~70.275.100~~)) 70A.505.100 (Written warning—Penalty—Appeal) and 2010 c 130 s 10;

(10) RCW ((~~70.275.110~~)) 70A.505.110 (Department's web site to list producers participating in product stewardship plan—Required participation in a product stewardship plan—Written warning—Penalty—Rules—Exemptions) and 2010 c 130 s 11;

(11) RCW ((~~70.275.130~~)) 70A.505.120 (Product stewardship programs account) and 2017 c 254 s 3 & 2010 c 130 s 13;

(12) RCW ((~~70.275.140~~)) 70A.505.130 (Adoption of rules—Report to the legislature—Invitation to entities to comment on issues—Estimate of statewide recycling rate for mercury-containing lights—Mercury vapor barrier packaging) and 2010 c 130 s 14;

(13) RCW ((~~70.275.150~~)) 70A.505.140 (Application of chapter to the Washington utilities and transportation commission) and 2010 c 130 s 15;

(14) RCW ((~~70.275.160~~)) 70A.505.150 (Application of chapter to entities regulated under chapter ((~~70.105~~)) 70A.300 RCW) and 2010 c 130 s 16;

(15) RCW ((~~70.275.900~~)) 70A.505.900 (Chapter liberally construed) and 2010 c 130 s 17;

(16) RCW ((~~70.275.904~~)) 70A.505.901 (Severability—2010 c 130) and 2010 c 130 s 21; and

(17) RCW ((~~70.275.170~~)) 70A.505.160 and 2014 c 119 s 6.

Sec. 49. RCW 43.155.070 and 2017 3rd sp.s. c 10 s 9 are each amended to read as follows:

(1) To qualify for financial assistance under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a capital facility plan; and

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) Except where necessary to address a public health need or substantial environmental degradation, a county, city, or town planning under RCW 36.70A.040 may not receive financial assistance under this chapter unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving financial assistance under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 that has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 may apply for and receive financial assistance under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before executing a contractual agreement for financial assistance with the board.

(3) In considering awarding financial assistance for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, the board must consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4)(a) The board must develop a process to prioritize applications and funding of loans and grants for public works projects submitted by local governments. The board must consider, at a minimum and in any order, the following factors in prioritizing projects:

(i) Whether the project is critical in nature and would affect the health and safety of many people;

(ii) The extent to which the project leverages other funds;

(iii) The extent to which the project is ready to proceed to construction;

(iv) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

(v) Whether the project promotes the sustainable use of resources and environmental quality, as applicable;

(vi) Whether the project consolidates or regionalizes systems;

(vii) Whether the project encourages economic development through mixed-use and mixed income development consistent with chapter 36.70A RCW;

(viii) Whether the system is being well-managed in the present and for long-term sustainability;

(ix) Achieving equitable distribution of funds by geography and population;

(x) The extent to which the project meets the following state policy objectives:

(A) Efficient use of state resources;

(B) Preservation and enhancement of health and safety;

(C) Abatement of pollution and protection of the environment;

(D) Creation of new, family-wage jobs, and avoidance of shifting existing jobs from one Washington state community to another;

(E) Fostering economic development consistent with chapter 36.70A RCW;

(F) Efficiency in delivery of goods and services and transportation; and

(G) Reduction of the overall cost of public infrastructure;

(xi) Whether the applicant sought or is seeking funding for the project from other sources; and

(xii) Other criteria that the board considers necessary to achieve the purposes of this chapter.

(b) Before September 1, 2018, and each year thereafter, the board must develop and submit a report regarding the construction loans and grants to the office of financial management and appropriate fiscal committees of the senate and house of representatives. The report must include:

(i) The total number of applications and amount of funding requested for public works projects;

(ii) A list and description of projects approved in the preceding fiscal year with project scores against the board's prioritization criteria;

(iii) The total amount of loan and grants disbursements made from the public works assistance account in the preceding fiscal year;

(iv) The total amount of loan repayments in the preceding fiscal year for outstanding loans from the public works assistance account;

(v) The total amount of loan repayments due for outstanding loans for each fiscal year over the following ten-year period; and

(vi) The total amount of funds obligated and timing of when the funds were obligated in the preceding fiscal year.

(c) The maximum amount of funding that the board may provide for any jurisdiction is ten million dollars per biennium.

(5) Existing debt or financial obligations of local governments may not be refinanced under this chapter. Each local government applicant must provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(6) Before September 1st of each year, the board must develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans and grants made under RCW 43.155.065 and 43.155.068.

(7) The board may not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds to the board for the purpose of funding public works projects under this chapter.

(8) To qualify for loans, grants, or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter (~~70.95~~) 70A.205 RCW.

(9) After January 1, 2010, any project designed to address the effects of stormwater or wastewater on Puget Sound may be funded under this section only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(10) For projects involving repair, replacement, or improvement of a wastewater treatment plant or other public works facility for which an investment grade efficiency audit is reasonably obtainable, the public works board must require as a contract condition that the project sponsor undertake an investment grade efficiency audit. The project sponsor may finance the costs of the audit as part of its public works assistance account program loan or grant.

(11) The board must implement policies and procedures designed to maximize local government consideration of other funds to finance local infrastructure.

Sec. 50. RCW 46.16A.060 and 2014 c 216 s 207 and 2014 c 72 s 1 are each reenacted and amended to read as follows:

(1) The department, county auditor or other agent, or subagent appointed by the director may not issue or renew a motor vehicle registration or change the registered owner of a registered vehicle for any motor vehicle required to be inspected under chapter ~~((70-120))~~ 70A.25 RCW, unless the application for issuance or renewal is: (a) Accompanied by a valid certificate of compliance or a valid certificate of acceptance issued as required under chapter ~~((70-120))~~ 70A.25 RCW; or (b) exempt, as described in subsection (2) of this section. The certificates must have a date of validation that is within twelve months of the assigned registration renewal date. Certificates for fleet or owner tested diesel vehicles may have a date of validation that is within twelve months of the assigned registration renewal date.

(2) The following motor vehicles are exempt from emission test requirements:

(a) Motor vehicles that are less than five years old or more than twenty-five years old;

(b) Motor vehicles that are a 2009 model year or newer;

(c) Motor vehicles powered exclusively by electricity, propane, compressed natural gas, liquefied natural gas, or liquid petroleum gas;

(d) Motorcycles as defined in RCW 46.04.330 and motor-driven cycles as defined in RCW 46.04.332;

(e) Farm vehicles as defined in RCW 46.04.181;

(f) Street rod vehicles as defined in RCW 46.04.572 and custom vehicles as defined in RCW 46.04.161;

(g) Used vehicles that are offered for sale by a motor vehicle dealer licensed under chapter 46.70 RCW;

(h) Classes of motor vehicles exempted by the director of the department of ecology;

(i) Hybrid motor vehicles that obtain a rating by the environmental protection agency of at least fifty miles per gallon of gas during city driving. For purposes of this section, a hybrid motor vehicle is one that uses propulsion units powered by both electricity and gas; and

(j) Collectible vehicles as defined in RCW 46.04.123.

(3) The department of ecology must provide information to motor vehicle owners:

(a) Regarding the boundaries of emission contributing areas and restrictions established under this section that apply to vehicles registered in such areas; and

(b) On the relationship between motor vehicles and air pollution and steps motor vehicle owners should take to reduce motor vehicle related air pollution.

(4) The department of licensing must:

(a) Notify all registered motor vehicle owners affected by the emission testing program that they must have an emission test to renew their registration;

(b) Adopt rules implementing and enforcing this section, except for subsection (2)(e) of this section, as specified in chapter 34.05 RCW.

(5) A motor vehicle may not be registered, leased, rented, or sold for use in the state, starting with the model year as provided in RCW ((70.120A.010)) 70A.30.010, unless the vehicle:

(a) Has seven thousand five hundred miles or more; or

(b)(i) Is consistent with the vehicle emission standards and carbon dioxide equivalent emission standards adopted by the department of ecology; and

(ii) Has a California certification label for all emission standards, and carbon dioxide equivalent emission standards necessary to meet fleet average requirements.

(6) The department of licensing, in consultation with the department of ecology, may adopt rules necessary to implement this section and may provide for reasonable exemptions to these requirements. The department of ecology may exempt public safety vehicles from meeting the standards where the department finds that vehicles necessary to meet the needs of public safety agencies are not otherwise reasonably available.

Sec. 51. RCW 46.37.470 and 2011 c 224 s 1 are each amended to read as follows:

(1) "Air conditioning equipment," as used or referred to in this section, means mechanical vapor compression refrigeration equipment that is used to cool the driver's or passenger compartment of any motor vehicle.

(2) Air conditioning equipment must be manufactured, installed, and maintained with due regard for the safety of the occupants of the vehicle and the public. Air conditioning equipment may not contain any refrigerant that is toxic to persons or that is flammable, unless the refrigerant is allowed under the department of ecology's motor vehicle emission standards adopted under RCW ((70.120A.010)) 70A.30.010.

(3) The state patrol may enforce safety requirements, regulations, and specifications consistent with the requirements of this section applicable to air conditioning equipment which must correlate with and, so far as possible, conform to the current recommended practice or standard applicable to air conditioning equipment approved by the society of automotive engineers.

(4) A person may not sell or equip, for use in this state, a new motor vehicle with any air conditioning equipment unless it complies with the requirements of this section.

(5) A person may not register or license for use on any highway any new motor vehicle equipped with any air conditioning equipment unless the equipment complies with the requirements of this section.

Sec. 52. RCW 46.55.230 and 2002 c 279 s 13 are each amended to read as follows:

(1)(a) Notwithstanding any other provision of law, any law enforcement officer having jurisdiction, or any employee or officer of a jurisdictional health department acting pursuant to RCW ((70.95.240)) 70A.205.195, or any person authorized by the director shall inspect and may authorize the disposal of an

abandoned junk vehicle. The person making the inspection shall record the make and vehicle identification number or license number of the vehicle if available, and shall also verify that the approximate value of the junk vehicle is equivalent only to the approximate value of the parts.

(b) A tow truck operator may authorize the disposal of an abandoned junk vehicle if the vehicle has been abandoned two or more times, the registered ownership information has not changed since the first abandonment, and the registered owner is also the legal owner.

(2) The law enforcement officer or department representative shall provide information on the vehicle's registered and legal owner to the landowner.

(3) Upon receiving information on the vehicle's registered and legal owner, the landowner shall mail a notice to the registered and legal owners shown on the records of the department. The notification shall describe the redemption procedure and the right to arrange for the removal of the vehicle.

(4) If the vehicle remains unclaimed more than fifteen days after the landowner has mailed notification to the registered and legal owner, the landowner may dispose of the vehicle or sign an affidavit of sale to be used as a title document.

(5) If no information on the vehicle's registered and legal owner is found in the records of the department, the landowner may immediately dispose of the vehicle or sign an affidavit of sale to be used as a title document.

(6) It is a gross misdemeanor for a person to abandon a junk vehicle on property. If a junk vehicle is abandoned, the vehicle's registered owner shall also pay a cleanup restitution payment equal to twice the costs incurred in the removal of the junk vehicle. The court shall distribute one-half of the restitution payment to the landowner of the property upon which the junk vehicle is located, and one-half of the restitution payment to the law enforcement agency or jurisdictional health department investigating the incident.

(7) For the purposes of this section, the term "landowner" includes a legal owner of private property, a person with possession or control of private property, or a public official having jurisdiction over public property.

(8) A person complying in good faith with the requirements of this section is immune from any liability arising out of an action taken or omission made in the compliance.

Sec. 53. RCW 46.80.020 and 2018 c 287 s 8 are each amended to read as follows:

(1)(a) Except as provided in (b) of this subsection, it is unlawful for a person to engage in the business of wrecking vehicles without having first applied for and received a license.

(b) As defined in chapter ~~((70.95))~~ 70A.205 RCW, a solid waste disposal site that is compliant with all applicable regulations may wreck a nonmotorized abandoned recreational vehicle, as defined in RCW 46.53.010.

(2)(a) Except as provided in (b) of this subsection, a person or firm engaged in the unlawful activity described in this section is guilty of a gross misdemeanor.

(b) A second or subsequent offense is a class C felony punishable according to chapter 9A.20 RCW.

Sec. 54. RCW 47.01.475 and 2013 c 291 s 14 are each amended to read as follows:

(1) Following the inspection required under RCW 47.01.470 and prior to transferring ownership of a department-owned vessel, the department shall obtain the following from the transferee:

(a) The purposes for which the transferee intends to use the vessel; and

(b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the department.

(2)(a) The department shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW (~~(70.105D.020)~~) 70A.305.020.

(b) However, the department may transfer a vessel with:

(i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the department's satisfaction that the container's or material's presence is consistent with the anticipated use of the vessel; and

(ii) A reasonable amount of fuel as determined by the department, based on factors including the vessel's size, condition, and anticipated use of the vessel, including initial destination following transfer.

(c) The department may consult with the department of ecology in carrying out the requirements of this subsection.

(3) Prior to sale, and unless the vessel has a title or valid marine document, the department is required to apply for a certificate of title for the vessel under RCW 88.02.510 and register the vessel under RCW 88.02.550.

Sec. 55. RCW 47.28.220 and 1996 c 198 s 4 are each amended to read as follows:

(1) A contract awarded in whole or in part for the purchase of compost products as a soil cover or soil amendment to state highway rights-of-way shall specify that compost products be purchased in accordance with the following schedule:

(a) For the period July 1, 1996, through June 30, 1997, twenty-five percent of the total dollar amount purchased;

(b) For the period July 1, 1998, through June 30, 1999, fifty percent of the total dollar amount purchased. The percentages in this subsection apply to the materials' value and include services or other materials.

(2) In order to carry out the provisions of this section, the department of transportation shall develop and adopt bid specifications for compost products used in state highway construction projects.

(3)(a) For purposes of this section, "compost products" means mulch, soil amendments, ground cover, or other landscaping material derived from the biological or mechanical conversion of biosolids or cellulose-containing waste materials.

(b) For purposes of this section, "biosolids" means municipal sewage sludge or septic tank septage sludge that meets the requirements of chapter (~~(70.951)~~) 70A.226 RCW.

Sec. 56. RCW 49.17.270 and 1973 c 80 s 27 are each amended to read as follows:

The department shall be the sole and paramount administrative agency responsible for the administration of the provisions of this chapter, and any other agency of the state or any municipal corporation or political subdivision of the state having administrative authority over the inspection, survey, investigation, or any regulatory or enforcement authority of safety and health standards related to the health and safety of employees in any workplace subject to this chapter, shall be required, notwithstanding any statute to the contrary, to exercise such authority as provided in this chapter and subject to interagency agreement or agreements with the department made under the authority of the interlocal cooperation act (chapter 39.34 RCW) relative to the procedures to be followed in the enforcement of this chapter: PROVIDED, That in relation to employers using or possessing sources of ionizing radiation the department of labor and industries and the department of social and health services shall agree upon mutual policies, rules, and regulations compatible with policies, rules, and regulations adopted pursuant to chapter ~~((70.98))~~ 70A.388 RCW insofar as such policies, rules, and regulations are not inconsistent with the provisions of this chapter.

Sec. 57. RCW 49.70.175 and 1985 c 410 s 5 are each amended to read as follows:

Funds in the worker and community right to know fund established under RCW 49.70.170 may be spent by the department of ecology to implement RCW ~~((70.102.020))~~ 70A.415.020 (1) through (3) following legislative appropriation. Disbursements from the fund shall be on authorization of the director of the department of ecology.

Sec. 58. RCW 52.12.150 and 2000 c 199 s 1 are each amended to read as follows:

Without obtaining a permit issued under RCW ~~((70.94.650))~~ 70A.15.5090, fire protection district firefighters may set fire to structures located outside of urban growth areas in counties that plan under the requirements of RCW 36.70A.040, and outside of any city with a population of ten thousand or more in all other counties, for instruction in methods of firefighting, if all of the following conditions are met:

(1) In consideration of prevailing air patterns, the fire is unlikely to cause air pollution in areas of sensitivity downwind of the proposed fire location;

(2) The fire is not located in an area that is declared to be in an air pollution episode or any stage of an impaired air quality as defined in RCW ~~((70.94.715 and 70.94.473))~~ 70A.15.6010 and 70A.15.3580;

(3) Nuisance laws are applicable to the fire, including nuisances related to the unreasonable interference with the enjoyment of life and property and the depositing of particulate matter or ash on other property;

(4) Notice of the fire is provided to the owners of property adjoining the property on which the fire will occur, to other persons who potentially will be impacted by the fire, and to additional persons in a broader manner as specifically requested by the local air pollution control agency or the department of ecology;

(5) Each structure that is proposed to be set on fire must be identified specifically as a structure to be set on fire. Each other structure on the same

parcel of property that is not proposed to be set on fire must be identified specifically as a structure not to be set on fire; and

(6) Before setting a structure on fire, a good-faith inspection is conducted by the fire agency or fire protection district conducting the training fire to determine if materials containing asbestos are present, the inspection is documented in writing and forwarded to the appropriate local air authority or the department of ecology if there is no local air authority, and asbestos that is found is removed as required by state and federal laws.

Sec. 59. RCW 53.08.470 and 2013 c 291 s 22 are each amended to read as follows:

(1) Following the inspection required under RCW 53.08.460 and prior to transferring ownership of a port district-owned vessel, a port district shall obtain the following from the transferee:

(a) The purposes for which the transferee intends to use the vessel; and

(b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the port district.

(2)(a) The port district shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW ((70.105D.020)) 70A.305.020.

(b) However, the port district may transfer a vessel with:

(i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the port district's satisfaction that the container's or material's presence is consistent with the anticipated use of the vessel; and

(ii) A reasonable amount of fuel as determined by the port district, based on factors including the vessel's size, condition, and anticipated use of the vessel including initial destination following transfer.

(c) The port district may consult with the department of ecology in carrying out the requirements of this subsection.

(3) Prior to sale, and unless the vessel has a title or valid marine document, the port district is required to apply for a certificate of title for the vessel under RCW 88.02.510 and register the vessel under RCW 88.02.550.

Sec. 60. RCW 54.04.092 and 1986 c 244 s 14 are each amended to read as follows:

RCW 54.04.070 through 54.04.090 shall not apply to agreements entered into under authority of chapter ((70.150)) 70A.140 RCW provided there is compliance with the procurement procedure under RCW ((70.150.040)) 70A.140.040.

Sec. 61. RCW 57.08.017 and 1996 c 230 s 321 are each amended to read as follows:

RCW 57.08.015, 57.08.016, 57.08.050, and 57.08.120 shall not apply to agreements entered into under authority of chapter ((70.150)) 70A.140 RCW if there is compliance with the procurement procedure under RCW ((70.150.040)) 70A.140.040.

Sec. 62. RCW 64.44.010 and 2017 c 115 s 2 are each amended to read as follows:

The words and phrases defined in this section shall have the following meanings when used in this chapter unless the context clearly indicates otherwise.

(1) "Authorized contractor" means a person who decontaminates, demolishes, or disposes of contaminated property as required by this chapter who is certified by the department as provided for in RCW 64.44.060.

(2) "Contaminated" or "contamination" means polluted by hazardous chemicals so that the property is unfit for human habitation or use due to immediate or long-term hazards. Property that at one time was contaminated but has been satisfactorily decontaminated according to procedures established by the state board of health is not "contaminated."

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

(4) "Hazardous chemicals" means:

(a) Methamphetamine in amounts exceeding the decontamination standards set by the department when found in transient accommodations such as hotels, motels, bed and breakfasts, resorts, inns, crisis shelters, hostels, and retreats that are regulated by the department; and

(b) The following substances associated with the illegal manufacture of controlled substances: (i) Hazardous substances as defined in RCW ((70.105D.020)) 70A.305.020; (ii) precursor substances as defined in RCW 69.43.010 which the state board of health, in consultation with the pharmacy quality assurance commission, has determined present an immediate or long-term health hazard to humans; and (iii) the controlled substance or substances being manufactured, as defined in RCW 69.50.101.

(5) "Officer" means a local health officer authorized under chapters 70.05, 70.08, and 70.46 RCW.

(6) "Property" means any real or personal property, or segregable part thereof, that is involved in or affected by the unauthorized manufacture, distribution, storage, or use of hazardous chemicals. This includes but is not limited to single-family residences, units of multiplexes, condominiums, apartment buildings, transient accommodations, boats, motor vehicles, trailers, manufactured housing, any shop, booth, garden, or storage shed, and all contents of the items referenced in this subsection.

Sec. 63. RCW 69.07.170 and 1992 c 34 s 1 are each amended to read as follows:

As used in RCW 69.07.180 and 69.07.190:

(1) "Artesian water" means bottled water from a well tapping a confined aquifer in which the water level stands above the water table. "Artesian water" shall meet the requirements of "natural water."

(2) "Bottled water" means water that is placed in a sealed container or package and is offered for sale for human consumption or other consumer uses.

(3) "Carbonated water" or "sparkling water" means bottled water containing carbon dioxide.

(4) "Department" means the department of agriculture.

(5) "Distilled water" means bottled water that has been produced by a process of distillation and meets the definition of purified water in the most recent edition of the United States Pharmacopeia.

(6) "Drinking water" means bottled water obtained from an approved source that has at minimum undergone treatment consisting of filtration, activated

carbon or particulate, and ozonization or an equivalent disinfection process, or that meets the requirements of the federal safe drinking water act of 1974 as amended and complies with all department of health rules regarding drinking water.

(7) "Mineral water" means bottled water that contains not less than five hundred parts per million total dissolved solids. "Natural mineral water" shall meet the requirements of "natural water."

(8) "Natural water" means bottled spring, mineral, artesian, or well water that is derived from an underground formation and may be derived from a public water system as defined in RCW ((70.119A.020)) 70A.125.010 only if that supply has a single source such as an actual spring, artesian well, or pumped well, and has not undergone any treatment that changes its original chemical makeup except ozonization or an equivalent disinfection process.

(9) "Plant operator" means a person who owns or operates a bottled water plant.

(10) "Purified water" means bottled water produced by distillation, deionization, reverse osmosis, or other suitable process and that meets the definition of purified water in the most recent edition of the United States Pharmacopeia. Water that meets this definition and is vaporized, then condensed, may be labeled "distilled water."

(11) "Spring water" means water derived from an underground formation from which water flows naturally to the surface of the earth. "Spring water" shall meet the requirements of "natural water."

(12) "Water dealer" means a person who imports bottled water or causes bulk water to be transported for bottling for human consumption or other consumer uses.

(13) "Well water" means water from a hole bored, drilled, or otherwise constructed in the ground that taps the water of an aquifer. "Well water" shall meet the requirements of "natural water."

Sec. 64. RCW 69.48.060 and 2018 c 196 s 6 are each amended to read as follows:

(1)(a) At least one hundred twenty days prior to submitting a proposal under RCW 69.48.050, a program operator must notify potential authorized collectors of the opportunity to serve as an authorized collector for the proposed drug take-back program. A program operator must commence good faith negotiations with a potential authorized collector no later than thirty days after the potential authorized collector expresses interest in participating in a proposed program.

(b) A person or entity may serve as an authorized collector for a drug take-back program voluntarily or in exchange for compensation, but nothing in this chapter requires a person or entity to serve as an authorized collector.

(c) A drug take-back program must include as an authorized collector any retail pharmacy, hospital or clinic with an on-site pharmacy, or law enforcement agency that offers to participate in the program without compensation and meets the requirements of subsection (2) of this section. Such a pharmacy, hospital, clinic, or law enforcement agency must be included as an authorized collector in the program no later than ninety days after receiving the offer to participate.

(d) A drug take-back program may also locate collection sites at:

(i) A long-term care facility where a pharmacy, or a hospital or clinic with an on-site pharmacy, operates a secure collection receptacle;

(ii) A substance use disorder treatment program, as defined in RCW 71.24.025; or

(iii) Any other authorized collector willing to participate as a collection site and able to meet the requirements of subsection (2) of this section.

(2)(a) A collection site must accept all covered drugs from covered entities during the hours that the authorized collector is normally open for business with the public.

(b) A collection site located at a long-term care facility may only accept covered drugs that are in the possession of individuals who reside or have resided at the facility.

(c) A collection site must use secure collection receptacles in compliance with state and federal law, including any applicable on-site storage and collection standards adopted by rule pursuant to chapter ~~((70.95 or 70.105))~~ 70A.205 or 70A.300 RCW and United States drug enforcement administration regulations. The program operator must provide a service schedule that meets the needs of each collection site to ensure that each secure collection receptacle is serviced as often as necessary to avoid reaching capacity and that collected covered drugs are transported to final disposal in a timely manner, including a process for additional prompt collection service upon notification from the collection site. Secure collection receptacle signage must prominently display a toll-free telephone number and web site for the program so that members of the public may provide feedback on collection activities.

(d) An authorized collector must comply with applicable provisions of chapters ~~((70.95 and 70.105))~~ 70A.205 and 70A.300 RCW, including rules adopted pursuant to those chapters that establish collection and transportation standards, and federal laws and regulations governing the handling of covered drugs, including United States drug enforcement administration regulations.

(3)(a) A drug take-back program's collection system must be safe, secure, and convenient on an ongoing, year-round basis and must provide equitable and reasonably convenient access for residents across the state.

(b) In establishing and operating a collection system, a program operator must give preference to locating collection sites at retail pharmacies, hospitals or clinics with on-site pharmacies, and law enforcement agencies.

(c)(i) Each population center must have a minimum of one collection site, plus one additional collection site for every fifty thousand residents of the city or town located within the population center. Collection sites must be geographically distributed to provide reasonably convenient and equitable access to all residents of the population center.

(ii) On islands and in areas outside of population centers, a collection site must be located at the site of each potential authorized collector that is regularly open to the public, unless the program operator demonstrates to the satisfaction of the department that a potential authorized collector is unqualified or unwilling to participate in the drug take-back program, in accordance with the requirements of subsection (1) of this section.

(iii) For purposes of this section, "population center" means a city or town and the unincorporated area within a ten-mile radius from the center of the city or town.

(d) A program operator must establish mail-back distribution locations or hold periodic collection events to supplement service to any area of the state that

is underserved by collection sites, as determined by the department, in consultation with the local health jurisdiction. The program operator, in consultation with the department, local law enforcement, the local health jurisdiction, and the local community, must determine the number and locations of mail-back distribution locations or the frequency and location of these collections events, to be held at least twice a year, unless otherwise determined through consultation with the local community. The program must arrange any periodic collection events in advance with local law enforcement agencies and conduct periodic collection events in compliance with United States drug enforcement administration regulations and protocols and applicable state laws.

(e) Upon request, a drug take-back program must provide a mail-back program free of charge to covered entities and to retail pharmacies that offer to distribute prepaid, preaddressed mailing envelopes for the drug take-back program. A drug take-back program must permit covered entities to request prepaid, preaddressed mailing envelopes through the program's web site, the program's toll-free telephone number, and a request to a pharmacist at a retail pharmacy distributing the program's mailing envelopes.

(f) The program operator must provide alternative collection methods for any covered drugs, other than controlled substances, that cannot be accepted or commingled with other covered drugs in secure collection receptacles, through a mail-back program, or at periodic collection events, to the extent permissible under applicable state and federal laws. The department shall review and approve of any alternative collection methods prior to their implementation.

Sec. 65. RCW 69.50.511 and 2007 c 104 s 17 are each amended to read as follows:

Law enforcement agencies who during the official investigation or enforcement of any illegal drug manufacturing facility come in contact with or are aware of any substances suspected of being hazardous as defined in RCW ((70.105D.020)) 70A.305.020, shall notify the department of ecology for the purpose of securing a contractor to identify, clean up, store, and dispose of suspected hazardous substances, except for those random and representative samples obtained for evidentiary purposes. Whenever possible, a destruct order covering hazardous substances which may be described in general terms shall be obtained concurrently with a search warrant. Materials that have been photographed, fingerprinted, and subsampled by police shall be destroyed as soon as practical. The department of ecology shall make every effort to recover costs from the parties responsible for the suspected hazardous substance. All recoveries shall be deposited in the account or fund from which contractor payments are made.

The department of ecology may adopt rules to carry out its responsibilities under this section. The department of ecology shall consult with law enforcement agencies prior to adopting any rule or policy relating to this section.

Sec. 66. RCW 69.55.020 and 2002 c 133 s 2 are each amended to read as follows:

A person is guilty of the crime of unlawful storage of ammonia if the person possesses, transports, or delivers pressurized ammonia gas or pressurized ammonia gas solution in a container that (1) is not approved by the United States department of transportation to hold ammonia, or (2) was not constructed to

meet state and federal industrial health and safety standards for holding ammonia. Violation of this section is a class C felony.

This section does not apply to public employees or private contractors authorized to clean up and dispose of hazardous waste or toxic substances under chapter (~~(70.105 or 70.105D)~~) 70A.300 or 70A.305 RCW or to solid waste haulers and their employees who unknowingly possess, transport, or deliver pressurized ammonia gas or pressurized ammonia gas solution during the course of the performance of their duties.

Sec. 67. RCW 70.79.090 and 2012 c 10 s 49 are each amended to read as follows:

The following boilers and unfired pressure vessels shall be exempt from the requirements of RCW 70.79.220 and 70.79.240 through 70.79.330:

(1) Boilers or unfired pressure vessels located on farms and used solely for agricultural purposes;

(2) Unfired pressure vessels that are part of fertilizer applicator rigs designed and used exclusively for fertilization in the conduct of agricultural operations;

(3) Steam boilers used exclusively for heating purposes carrying a pressure of not more than fifteen pounds per square inch gauge and which are located in private residences or in apartment houses of less than six families;

(4) Hot water heating boilers carrying a pressure of not more than thirty pounds per square inch and which are located in private residences or in apartment houses of less than six families;

(5) Approved pressure vessels (hot water heaters, hot water storage tanks, hot water supply boilers, and hot water heating boilers listed by a nationally recognized testing agency), with approved safety devices including a pressure relief valve, with a nominal water containing capacity of one hundred twenty gallons or less having a heat input of two hundred thousand b.t.u.'s per hour or less, at pressure of one hundred sixty pounds per square inch or less, and at temperatures of two hundred ten degrees Fahrenheit or less: PROVIDED, HOWEVER, That such pressure vessels are not installed in schools, child care centers, public and private hospitals, nursing homes, assisted living facilities, churches, public buildings owned or leased and maintained by the state or any political subdivision thereof, and assembly halls;

(6) Unfired pressure vessels containing only water under pressure for domestic supply purposes, including those containing air, the compression of which serves only as a cushion or airlift pumping systems, when located in private residences or in apartment houses of less than six families, or in public water systems as defined in RCW (~~(70.119.020)~~) 70A.120.020;

(7) Unfired pressure vessels containing liquefied petroleum gases.

Sec. 68. RCW 70.290.050 and 2010 c 174 s 5 are each amended to read as follows:

(1) The board of the association shall establish a committee for the purposes of developing recommendations to the board regarding selection of vaccines to be purchased in each upcoming year by the department. The committee must be composed of at least five voting board members, including at least three health carrier or third-party administrator members, one physician, and the secretary or the secretary's designee. The committee must also include a representative of

vaccine manufacturers, who is a nonvoting member of the committee. The representative of vaccine manufacturers must be chosen by the secretary from a list of three nominees submitted collectively by vaccine manufacturers on an annual basis.

(2) In selecting vaccines to purchase, the following factors should be strongly considered by the committee: Patient safety and clinical efficacy, public health and purchaser value, compliance with RCW ~~((70.95M.115))~~ 70A.230.120, patient and provider choice, and stability of vaccine supply.

Sec. 69. RCW 70.345.010 and 2019 c 445 s 210 and 2019 c 15 s 4 are each reenacted and amended to read as follows:

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

(1) "Board" means the Washington state liquor and cannabis board.

(2) "Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing vapor products in this state.

(3) "Child care facility" has the same meaning as provided in RCW ~~((70.140.020))~~ 70A.320.020.

(4) "Closed system nicotine container" means a sealed, prefilled, and disposable container of nicotine in a solution or other form in which such container is inserted directly into an electronic cigarette, electronic nicotine delivery system, or other similar product, if the nicotine in the container is inaccessible through customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion or other contact by children.

(5) "Delivery sale" means any sale of a vapor product to a purchaser in this state where either:

(a) The purchaser submits the order for such sale by means of a telephonic or other method of voice transmission, the mails or any other delivery service, or the internet or other online service; or

(b) The vapor product is delivered by use of the mails or of a delivery service. The foregoing sales of vapor products constitute a delivery sale regardless of whether the seller is located within or without this state. "Delivery sale" does not include a sale of any vapor product not for personal consumption to a retailer.

(6) "Delivery seller" means a person who makes delivery sales.

(7) "Distributor" has the same meaning as in RCW 82.25.005.

(8) "Liquid nicotine container" means a package from which nicotine in a solution or other form is accessible through normal and foreseeable use by a consumer and that is used to hold soluble nicotine in any concentration. "Liquid nicotine container" does not include closed system nicotine containers.

(9) "Manufacturer" means a person who manufactures and sells vapor products.

(10) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, the state and its departments and institutions, political subdivision of the state of Washington, corporation, limited liability company, association, society, any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise.

(11) "Place of business" means any place where vapor products are sold or where vapor products are manufactured, stored, or kept for the purpose of sale.

(12) "Playground" means any public improved area designed, equipped, and set aside for play of six or more children which is not intended for use as an athletic playing field or athletic court, including but not limited to any play equipment, surfacing, fencing, signs, internal pathways, internal land forms, vegetation, and related structures.

(13) "Retail outlet" means each place of business from which vapor products are sold to consumers.

(14) "Retailer" means any person engaged in the business of selling vapor products to ultimate consumers.

(15)(a) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person.

(b) The term "sale" includes a gift by a person engaged in the business of selling vapor products, for advertising, promoting, or as a means of evading the provisions of this chapter.

(16) "School" has the same meaning as provided in RCW (~~(70.140.020)~~) 70A.320.020.

(17) "Self-service display" means a display that contains vapor products and is located in an area that is openly accessible to customers and from which customers can readily access such products without the assistance of a salesperson. A display case that holds vapor products behind locked doors does not constitute a self-service display.

(18) "Vapor product" means any noncombustible product that may contain nicotine and that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor or aerosol from a solution or other substance.

(a) "Vapor product" includes any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container that may contain nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

(b) "Vapor product" does not include any product that meets the definition of marijuana, useable marijuana, marijuana concentrates, marijuana-infused products, cigarette, or tobacco products.

(c) For purposes of this subsection (18), "marijuana," "useable marijuana," "marijuana concentrates," and "marijuana-infused products" have the same meaning as provided in RCW 69.50.101.

Sec. 70. RCW 70A.45.090 and 2020 c 120 s 3 are each amended to read as follows:

(1)(a) Washington's existing forest products sector, including public and private working forests and the harvesting, transportation, and manufacturing sectors that enable working forests to remain on the land and the state to be a global supplier of forest products, is, according to a University of Washington study analyzing the global warming mitigating role of wood products from Washington's private forests, an industrial sector that currently operates as a significant net sequesterer of carbon. This value, which is only provided through the maintenance of an intact and synergistic industrial sector, is an integral

component of the state's contribution to the global climate response and efforts to mitigate carbon emissions.

(b) Satisfying the goals set forth in RCW ((70.235.020)) 70A.45.020 requires supporting, throughout all of state government, consistent with other laws and mandates of the state, the economic vitality of the sustainable forest products sector and other business sectors capable of sequestering and storing carbon. This includes support for working forests of all sizes, ownerships, and management objectives, and the necessary manufacturing sectors that support the transformation of stored carbon into long-lived forest products while maintaining and enhancing the carbon mitigation benefits of the forest sector, sustaining rural communities, and providing for fish, wildlife, and clean water, as provided in chapter 76.09 RCW. Support for the forest sector also ensures the state's public and private working forests avoid catastrophic wildfire and other similar disturbances and avoid conversion in the face of unprecedented conversion pressures.

(c) It is the policy of the state to support the contributions of all working forests and the synergistic forest products sector to the state's climate response. This includes landowners, mills, bioenergy, pulp and paper, and the related harvesting and transportation infrastructure that is necessary for forestland owners to continue the rotational cycle of carbon capture and sequestration in growing trees and allows forest products manufacturers to store the captured carbon in wood products and maintain and enhance the forest sector's role in mitigating a significant percentage of the state's carbon emissions while providing other environmental and social benefits and supporting a strong rural economic base. It is further the policy of the state to support the participation of working forests in current and future carbon markets, strengthening the state's role as a valuable contributor to the global carbon response while supporting one of its largest manufacturing sectors.

(d) It is further the policy of the state to utilize carbon accounting land use, land use change, and forestry reporting principles consistent with established reporting guidelines, such as those used by the intergovernmental panel on climate change and the United States national greenhouse gas reporting inventories.

(2) Any state carbon programs must support the policies stated in this section and recognize the forest products industry's contribution to the state's climate response.

Sec. 71. RCW 70A.45.100 and 2020 c 79 s 4 are each amended to read as follows:

(1) Separate and apart from the emissions limits established in RCW ((70.235.020)) 70A.45.020, it is the policy of the state to promote the removal of excess carbon from the atmosphere through voluntary and incentive-based sequestration activities in Washington including, but not limited to, on natural and working lands and by recognizing the potential for sequestration in products and product supply chains. It is the policy of the state to prioritize carbon sequestration in amounts necessary to achieve the carbon neutrality goal established in RCW ((70.235.020)) 70A.45.020, and at a level consistent with pathways to limit global warming to one and one-half degrees.

(2)(a) All agencies of state government including, but not limited to, the department, the department of natural resources, the department of

transportation, the department of fish and wildlife, the department of agriculture, the department of commerce, the recreation and conservation office, and the conservation commission, shall seek all practicable opportunities, consistent with existing legal mandates and requirements and statutory objectives, to cost-effectively maximize carbon sequestration and carbon storage in their nonland management agency operations, contracting, and grant-making activities.

(b) Any such effort to promote carbon sequestration activities that affects support for, or management of private lands or trust lands managed by the department of natural resources must be done in cooperation with the owners and managers of those natural and working lands.

Sec. 72. RCW 70A.325.070 and 2020 c 156 s 2 are each amended to read as follows:

The director has the following powers and duties:

(1) To design and from time to time revise a reinsurance contract providing coverage to an insurer meeting the requirements of this chapter. Before initially entering into a reinsurance contract, the director shall prepare an actuarial report describing the various reinsurance methods considered by the director and describing each method's costs. In designing the reinsurance contract the director shall consider common insurance industry reinsurance contract provisions and shall design the contract in accordance with the following guidelines:

(a) The contract shall provide coverage to the insurer for the liability risks of owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action that are underwritten by the insurer.

(b) In the event of an insolvency of the insurer, the reinsurance contract shall provide reinsurance payable directly to the insurer or to its liquidator, receiver, or successor on the basis of the liability of the insurer in accordance with the reinsurance contract. In no event may the program be liable for or provide coverage for that portion of any covered loss that is the responsibility of the insurer whether or not the insurer is able to fulfill the responsibility.

(c) The total limit of liability for reinsurance coverage shall not exceed one million dollars per occurrence and two million dollars annual aggregate for each policy underwritten by the insurer less the ultimate net loss retained by the insurer as defined and provided for in the reinsurance contract.

(d) Disputes between the insurer and the insurance program shall be settled through arbitration.

(2) To design and implement a structure of periodic premiums due the director from the insurer that takes full advantage of revenue collections and projected revenue collections to ensure affordable premiums to the insured consistent with sound actuarial principles.

(3) To periodically review premium rates for reinsurance to determine whether revenue appropriations supporting the program can be reduced without substantially increasing the insured's premium costs.

(4) To solicit bids from insurers and select an insurer to provide pollution liability insurance to owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action.

(5) To monitor the activities of the insurer to ensure compliance with this chapter and protect the program from excessive loss exposure resulting from claims mismanagement by the insurer.

(6) To monitor the success of the program and periodically make such reports and recommendations to the legislature as the director deems appropriate, and to annually publish a financial report on the pollution liability insurance program trust account showing, among other things, administrative and other expenses paid from the fund.

(7) To annually report the financial and loss experience of the insurer as to policies issued under the program and the financial and loss experience of the program to the legislature.

(8) To enter into contracts with public and private agencies to assist the director in his or her duties to design, revise, monitor, and evaluate the program and to provide technical or professional assistance to the director.

(9) To examine the affairs, transactions, accounts, records, documents, and assets of insurers as the director deems advisable.

(10) To design, in consultation with the office of financial management, an emergency program to assist owners and operators of underground storage tanks in meeting the federal financial responsibility requirements in the event that a private insurer withdraws from the Washington pollution liability insurance program.

(11) To determine, assess, and collect moneys sufficient to cover the direct and indirect costs of implementing the emergency program, including initial program development costs. The moneys may be collected from underground storage tank owners and operators who are using the emergency program. All moneys collected under this section must be deposited in the pollution liability insurance program trust account created in RCW ((70.148.020)) 70A.325.020.

Sec. 73. RCW 70A.325.130 and 2020 c 156 s 3 are each amended to read as follows:

(1) The director may implement an emergency (1) program, as designed under RCW ((70.148.050)) 70A.325.070.

(2) At the legislative session following implementation of an emergency program, the director must provide to the legislature a report on the options available to assist owners and operators in using one or a combination of mechanisms to demonstrate financial responsibility for underground storage tanks. The report must include, but is not limited to: Discussion of a state run insurance program; alternative options to a state run insurance program; an evaluation and recommendation of the finances required to develop and implement a new financial responsibility model that complies with the federal financial responsibility requirements in 40 C.F.R. Part 280, subpart H; and recommendations for legislation necessary to implement actions needed to meet federal financial responsibility requirements in 40 C.F.R. Part 280, subpart H.

Sec. 74. RCW 70A.330.010 and 2020 c 310 s 1 are each amended to read as follows:

The legislature finds that it is in the best interests of all citizens for petroleum storage tank systems to be operated safely and for tank leaks or spills to be dealt with expeditiously. The legislature finds that it is appropriate for an agency with expertise in petroleum to provide technical advice and assistance to owners or operators when there has been a release. The legislature further finds that while it is necessary to protect tank owners from the financial hardship related to damaged heating oil tanks, support can be provided through the

agency's revolving loan and grant program in chapter (~~(70.340)~~) 70A.345 RCW. Therefore, the legislature intends to transition the pollution liability insurance program for heating oil tanks to a revolving loan and grant program, while maintaining the pollution liability insurance program for existing registrants.

Sec. 75. RCW 70A.345.030 and 2020 c 310 s 6 and 2020 c 20 s 1436 are each reenacted and amended to read as follows:

(1) The agency shall establish an underground storage tank revolving loan and grant program to provide loans or grants to owners or operators to:

(a) Conduct remedial actions in accordance with chapter 70A.305 RCW, including investigations and cleanups of any release or threatened release of a hazardous substance at or affecting an underground storage tank facility, provided that at least one of the releases or threatened releases involves petroleum;

(b) Upgrade, replace, or permanently close a petroleum underground storage tank system in accordance with chapter 70A.355 RCW or subtitle I of the solid waste disposal act (42 U.S.C., chapter 82, subchapter IX), as applicable;

(c) Install new infrastructure or retrofit existing infrastructure at an underground storage tank facility for dispensing or using renewable or alternative energy for motor vehicles, including electric vehicle charging stations, when conducted in conjunction with either (a) or (b) of this subsection;

(d) Install and subsequently remove a temporary petroleum aboveground storage tank system in compliance with applicable laws, when conducted in conjunction with either (a) or (b) of this subsection;

(e) Conduct remedial actions in accordance with chapter (~~(70.105D)~~) 70A.305 RCW, including investigation and cleanup of any release or threatened releases of petroleum from a heating oil tank; or

(f) Prevent future releases by upgrading, replacing, decommissioning, or removing a heating oil tank.

(2) The maximum amount that may be loaned or granted under this program to an owner or operator for a single underground storage tank facility is two million dollars and for a single heating oil tank seventy-five thousand dollars.

Sec. 76. RCW 70A.445.020 and 2020 c 67 s 1 are each amended to read as follows:

(1) The department will conduct a review of information about antifouling paints and ingredients, including information received from manufacturers and others pursuant to this chapter; information on the feasibility of best management practices and nonbiocidal antifouling alternatives; and any additional scientific or technical information and studies it determines are relevant to that review.

(2) The department must submit a report to the legislature summarizing its findings no later than June 30, 2024. Prior to submitting the report to the legislature, the department will conduct a public comment process to obtain expertise, input, and a review of the department's proposed determinations by relevant stakeholders and other interested parties. The input received from the public comment process must be considered before finalizing the report.

(3) If the department determines that safer and effective alternatives to copper-based antifouling paints are feasible, reasonable, and readily available, then:

(a) Beginning January 1, 2026, no manufacturer, wholesaler, retailer, or distributor may sell or offer for sale in this state any new recreational water vessel manufactured on or after January 1, 2026, with antifouling paint containing more than 0.5 percent copper. This restriction does not apply to wood boats.

(b) Beginning January 1, 2026, antifouling paint that is intended for use on a recreational water vessel and that contains more than 0.5 percent copper may not be offered for sale in this state.

(c) Beginning January 1, 2026, antifouling paint containing more than 0.5 percent copper may not be applied to a recreational water vessel in this state. This restriction does not apply to wood boats.

(4) If the department does not determine by June 30, 2024, that safer and effective alternatives to copper-based antifouling paints are feasible, reasonable, and readily available, then the department must conduct a second review of relevant studies and information on alternatives to copper-based antifouling paints and submit a report to the legislature summarizing its findings no later than June 30, 2029.

(5) Nothing in this section restricts the department from reviewing and restricting antifouling paints under chapter (~~(70.365)~~) 70A.350 RCW.

Sec. 77. RCW 70A.530.020 and 2020 c 138 s 3 are each amended to read as follows:

(1) Beginning January 1, 2021, except as provided in this section and RCW 70A.530.030, a retail establishment may not provide to a customer or a person at an event:

(a) A single-use plastic carryout bag;

(b) A paper carryout bag or reusable carryout bag made of film plastic that does not meet recycled content requirements; or

(c) Beginning January 1, 2026, a reusable carryout bag made of film plastic with a thickness of less than four mils, in the event that the 2025 legislature does not amend this section to reflect the recommendations to the legislature made consistent with RCW 70A.530.060.

(2)(a) A retail establishment may provide a reusable carryout bag or a recycled content paper carryout bag of any size to a customer at the point of sale. A retail establishment may make reusable carryout bags available to customers through sale.

(b)(i) Until December 31, 2025, a retail establishment must collect a pass-through charge of eight cents for every recycled content paper carryout bag with a manufacturer's stated capacity of one-eighth barrel (eight hundred eighty-two cubic inches) or greater or reusable carryout bag made of film plastic it provides, except as provided in subsection (5) of this section and RCW 70A.530.030.

(ii) Beginning January 1, 2026, a retail establishment must collect a pass-through charge of twelve cents for reusable carryout bags made of film plastic and eight cents for recycled content paper carryout bags, in the event that the 2025 legislature does not amend this section to reflect the recommendations to the legislature made consistent with RCW 70A.530.060. It is the intent of the legislature for the 2025 legislature to reassess the amount of the pass-through charge authorized under this subsection (2)(b), taking into consideration the content of the report to the legislature under RCW 70A.530.060.

(c) A retail establishment must keep all revenue from pass-through charges. The pass-through charge is a taxable retail sale. A retail establishment must show all pass-through charges on a receipt provided to the customer.

(3) Carryout bags provided by a retail establishment do not include:

(a) Bags used by consumers inside stores to:

(i) Package bulk items, such as fruit, vegetables, nuts, grains, candy, greeting cards, or small hardware items such as nails, bolts, or screws;

(ii) Contain or wrap items where dampness or sanitation might be a problem including, but not limited to:

(A) Frozen foods;

(B) Meat;

(C) Fish;

(D) Flowers; and

(E) Potted plants;

(iii) Contain unwrapped prepared foods or bakery goods;

(iv) Contain prescription drugs; or

(v) Protect a purchased item from damaging or contaminating other purchased items when placed in a recycled content paper carryout bag or reusable carryout bag; or

(b) Newspaper bags, mailing pouches, sealed envelopes, door hanger bags, laundry/dry cleaning bags, or bags sold in packages containing multiple bags for uses such as food storage, garbage, or pet waste.

(4)(a) Any compostable film bag that a retail establishment provides to customers for products, including for products bagged in stores prior to checkout, must meet the requirements for compostable products and film bags in chapter (~~(70.360)~~) 70A.455 RCW.

(b) A retail establishment may not use or provide polyethylene or other noncompostable plastic bags for bagging of customer products in stores, as carryout bags, or for home delivery that do not meet the requirements for noncompostable products and film bags in chapter (~~(70.360)~~) 70A.455 RCW.

(5) Except as provided by local regulations enacted as of April 1, 2020, a retail establishment may provide a bag restricted under subsection (1) of this section from existing inventory until one year after June 11, 2020. The retail establishment, upon request by the department, must provide purchase invoices, distribution receipts, or other information documenting that the bag was acquired prior to June 11, 2020.

(6) For the purposes of this section:

(a) A recycled content paper carryout bag must:

(i) Contain a minimum of forty percent postconsumer recycled materials;

(ii) Be capable of composting, consistent with the timeline and specifications of the entire American society of testing materials D6868 and associated test methods that must be met, as it existed as of January 1, 2020; and

(iii) Display in print on the exterior of the paper bag the minimum percentage of postconsumer content.

(b) A reusable carryout bag must:

(i) Have a minimum lifetime of one hundred twenty-five uses, which for purposes of this subsection means the capacity to carry a minimum of twenty-two pounds one hundred twenty-five times over a distance of at least one hundred seventy-five feet;

(ii) Be machine washable or made from a durable material that may be cleaned or disinfected; and

(iii) If made of film plastic:

(A) Be made from a minimum of twenty percent postconsumer recycled content until July 1, 2022, and thereafter must be made from a minimum of forty percent postconsumer recycled content;

(B) Display in print on the exterior of the plastic bag the minimum percentage of postconsumer recycled content, the mil thickness, and that the bag is reusable; and

(C) Have a minimum thickness of no less than 2.25 mils until December 31, 2025, and beginning January 1, 2026, must have a minimum thickness of four mils.

(c) Except for the purposes of subsection (4) of this section, food banks and other food assistance programs are not retail establishments, but are encouraged to take actions to reduce the use of single-use plastic carryout bags.

Sec. 78. RCW 70A.530.020 and 2020 c 138 s 3 are each amended to read as follows:

(1) Beginning January 1, 2021, except as provided in this section and RCW 70A.530.030, a retail establishment may not provide to a customer or a person at an event:

(a) A single-use plastic carryout bag;

(b) A paper carryout bag or reusable carryout bag made of film plastic that does not meet recycled content requirements; or

(c) Beginning January 1, 2026, a reusable carryout bag made of film plastic with a thickness of less than four mils, in the event that the 2025 legislature does not amend this section to reflect the recommendations to the legislature made consistent with RCW 70A.530.060.

(2)(a) A retail establishment may provide a reusable carryout bag or a recycled content paper carryout bag of any size to a customer at the point of sale. A retail establishment may make reusable carryout bags available to customers through sale.

(b)(i) Until December 31, 2025, a retail establishment must collect a pass-through charge of eight cents for every recycled content paper carryout bag with a manufacturer's stated capacity of one-eighth barrel (eight hundred eighty-two cubic inches) or greater or reusable carryout bag made of film plastic it provides, except as provided in subsection (5) of this section and RCW 70A.530.030.

(ii) Beginning January 1, 2026, a retail establishment must collect a pass-through charge of twelve cents for reusable carryout bags made of film plastic and eight cents for recycled content paper carryout bags, in the event that the 2025 legislature does not amend this section to reflect the recommendations to the legislature made consistent with RCW 70A.530.060. It is the intent of the legislature for the 2025 legislature to reassess the amount of the pass-through charge authorized under this subsection (2)(b), taking into consideration the content of the report to the legislature under RCW 70A.530.060.

(c) A retail establishment must keep all revenue from pass-through charges. The pass-through charge is a taxable retail sale. A retail establishment must show all pass-through charges on a receipt provided to the customer.

(3) Carryout bags provided by a retail establishment do not include:

(a) Bags used by consumers inside stores to:

(i) Package bulk items, such as fruit, vegetables, nuts, grains, candy, greeting cards, or small hardware items such as nails, bolts, or screws;

(ii) Contain or wrap items where dampness or sanitation might be a problem including, but not limited to:

(A) Frozen foods;

(B) Meat;

(C) Fish;

(D) Flowers; and

(E) Potted plants;

(iii) Contain unwrapped prepared foods or bakery goods;

(iv) Contain prescription drugs; or

(v) Protect a purchased item from damaging or contaminating other purchased items when placed in a recycled content paper carryout bag or reusable carryout bag; or

(b) Newspaper bags, mailing pouches, sealed envelopes, door hanger bags, laundry/dry cleaning bags, or bags sold in packages containing multiple bags for uses such as food storage, garbage, or pet waste.

(4)(a) Any compostable film bag that a retail establishment provides to customers for products, including for products bagged in stores prior to checkout, must meet the requirements for compostable products and film bags in chapter (~~(70.360)~~) 70A.455 RCW.

(b) A retail establishment may not use or provide polyethylene or other noncompostable plastic bags for bagging of customer products in stores, as carryout bags, or for home delivery that do not meet the requirements for noncompostable products and film bags in chapter (~~(70.360)~~) 70A.455 RCW.

(5) Except as provided by local regulations enacted as of April 1, 2020, a retail establishment may provide a bag restricted under subsection (1) of this section from existing inventory until one year after June 11, 2020. The retail establishment, upon request by the department, must provide purchase invoices, distribution receipts, or other information documenting that the bag was acquired prior to June 11, 2020.

(6) For the purposes of this section:

(a) A recycled content paper carryout bag must:

(i) Contain a minimum of forty percent postconsumer recycled materials;

(ii) Be capable of composting, consistent with the timeline and specifications of the entire American society of testing materials D6868 and associated test methods that must be met, as it existed as of January 1, 2020; and

(iii) Display in print on the exterior of the paper bag the minimum percentage of postconsumer content.

(b) A reusable carryout bag must:

(i) Have a minimum lifetime of one hundred twenty-five uses, which for purposes of this subsection means the capacity to carry a minimum of twenty-two pounds one hundred twenty-five times over a distance of at least one hundred seventy-five feet;

(ii) Be machine washable or made from a durable material that may be cleaned or disinfected; and

(iii) If made of film plastic:

(A) Be made from a minimum of twenty percent postconsumer recycled content until July 1, 2022, and thereafter must be made from a minimum of forty percent postconsumer recycled content;

(B) Display in print on the exterior of the plastic bag the minimum percentage of postconsumer recycled content, the mil thickness, and that the bag is reusable; and

(C) Have a minimum thickness of no less than 2.25 mils until December 31, 2025, and beginning January 1, 2026, must have a minimum thickness of four mils.

(c) Except for the purposes of subsection (4) of this section, food banks and other food assistance programs are not retail establishments, but are encouraged to take actions to reduce the use of single-use plastic carryout bags.

Sec. 79. RCW 76.04.205 and 1986 c 100 s 17 are each amended to read as follows:

(1) Except in certain areas designated by the department or as permitted under rules adopted by the department, a person shall have a valid written burning permit obtained from the department to burn:

(a) Any flammable material on any lands under the protection of the department; or

(b) Refuse or waste forest material on forestlands protected by the department.

(2) To be valid a permit must be signed by both the department and the permittee. Conditions may be imposed in the permit for the protection of life, property, or air quality and (~~(the department)~~) the department may suspend or revoke the permits when conditions warrant. A permit shall be effective only under the conditions and for the period stated therein. Signing of the permit shall indicate the permittee's agreement to and acceptance of the conditions of the permit.

(3) The department may inspect or cause to be inspected the area involved and may issue a burning permit if:

(a) All requirements relating to firefighting equipment, the work to be done, and precautions to be taken before commencing the burning have been met;

(b) No unreasonable danger will result; and

(c) Burning will be done in compliance with air quality standards established by chapter (~~(70.94)~~) 70A.15 RCW.

(4) The department, authorized employees thereof, or any warden or ranger may refuse, revoke, or postpone the use of permits to burn when necessary for the safety of adjacent property or when necessary in their judgment to prevent air pollution as provided in chapter (~~(70.94)~~) 70A.15 RCW.

Sec. 80. RCW 76.09.905 and 1974 ex.s. c 137 s 31 are each amended to read as follows:

Nothing in RCW 76.09.010 through 76.09.280 or 90.48.420 shall modify chapter (~~(70.94)~~) 70A.15 RCW or any other provision of law relating to the control of air pollution.

Sec. 81. RCW 77.12.734 and 2013 c 291 s 10 are each amended to read as follows:

(1) Following the inspection required under RCW 77.12.732 and prior to transferring ownership of a department-owned vessel, the department shall obtain the following from the transferee:

(a) The purposes for which the transferee intends to use the vessel; and

(b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the department.

(2)(a) The department shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW (~~(70.105D.020)~~) 70A.305.020.

(b) However, the department may transfer a vessel with:

(i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the department's satisfaction that the container's or material's presence is consistent with the anticipated use of the vessel; and

(ii) A reasonable amount of fuel as determined by the department, based on factors including the vessel's size, condition, and anticipated use of the vessel, including initial destination following transfer.

(c) The department may consult with the department of ecology in carrying out the requirements of this subsection.

(3) Prior to sale, and unless the vessel has a title or valid marine document, the department is required to apply for a certificate of title for the vessel under RCW 88.02.510 and register the vessel under RCW 88.02.550.

Sec. 82. RCW 77.60.170 and 2008 c 202 s 1 are each amended to read as follows:

(1)(a) The department shall transfer the funds required by RCW 77.60.160 to the appropriate local governments. Pacific and Grays Harbor counties and Puget Sound shall manage their established shellfish—on-site sewage grant program. The local governments, in consultation with the department of health, shall use the provided funds as grants or loans to individuals for repairing or improving their on-site sewage systems. The grants or loans may be provided only in areas that have the potential to adversely affect water quality in commercial and recreational shellfish growing areas.

(b) A recipient of a grant or loan shall enter into an agreement with the appropriate local government to maintain the improved on-site sewage system according to specifications required by the local government.

(c) The department shall work closely with local governments and it shall be the goal of the department to attain geographic equity between Grays Harbor, Willapa Bay, and Puget Sound when making funds available under this program.

(d) For the purposes of this subsection, "geographic equity" means issuing on-site sewage grants or loans at a level that matches the funds generated from the oyster reserve lands in that area.

(2) In Puget Sound, the local governments shall give first priority to areas that are:

(a) Identified as "areas of special concern" under WAC 246-272-01001;

(b) Included within a shellfish protection district under chapter 90.72 RCW;
or

(c) Identified as a marine recovery area under chapter (~~(70.118A)~~) 70A.110 RCW.

(3) In Grays Harbor and Pacific counties, the local governments shall give first priority to preventing the deterioration of water quality in areas where commercial or recreational shellfish are grown.

(4) The department and each participating local government shall enter into a memorandum of understanding that will establish an applicant income eligibility requirement for individual grant applicants from within the jurisdiction and other mutually agreeable terms and conditions of the grant program.

(5) For the 2007-2009 biennium, from the funds received under this section, Pacific county shall transfer up to two hundred thousand dollars to the department. Upon receiving the funds from Pacific county, the department and the appropriate oyster reserve advisory committee under RCW 77.60.160 shall identify and execute specific research projects with those funds.

Sec. 83. RCW 78.44.050 and 2003 c 39 s 39 are each amended to read as follows:

The department shall have the exclusive authority to regulate surface mine reclamation. No county, city, or town may require for its review or approval a separate reclamation plan or application. The department may, however, delegate some or all of its enforcement authority by contractual agreement to a county, city, or town that employs personnel who are, in the opinion of the department, qualified to enforce plans approved by the department. All counties, cities, or towns shall have the authority to zone surface mines and adopt ordinances regulating operations as provided in this chapter, except that county, city, or town operations ordinances may be preempted by the department during the emergencies outlined in RCW 78.44.200 and related rules.

This chapter shall not alter or preempt any provisions of the state water allocation and use laws (chapters 90.03 and 90.44 RCW), the state water pollution control laws (chapter 90.48 RCW), the state fish and wildlife laws (Title 77 RCW), state noise laws or air quality laws (Title 70 RCW), shoreline management (chapter 90.58 RCW), the state environmental policy act (chapter 43.21C RCW), state growth management (chapter 36.70A RCW), state drinking water laws (chapters 43.20 and (~~70.119A~~) 70A.125 RCW), or any other state statutes.

Sec. 84. RCW 78.56.020 and 1994 c 232 s 2 are each amended to read as follows:

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

(1) "Metals mining and milling operation" means a mining operation extracting from the earth precious or base metal ore and processing the ore by treatment or concentration in a milling facility. It also refers to an expansion of an existing operation or any new metals mining operation if the expansion or new mining operation is likely to result in a significant, adverse environmental impact pursuant to the provisions of chapter 43.21C RCW. The extraction of dolomite, sand, gravel, aggregate, limestone, magnesite, silica rock, and zeolite or other nonmetallic minerals; and placer mining; and the smelting of aluminum are not metals mining and milling operations regulated under this chapter.

(2) "Milling" means the process of grinding or crushing ore and extracting the base or precious metal by chemical solution, electro winning, or flotation processes.

(3) "Heap leach extraction process" means the process of extracting base or precious metal ore by percolating solutions through ore in an open system and includes reprocessing of previously milled ore. The heap leach extraction process does not include leaching in a vat or tank.

(4) "In situ extraction" means the process of dissolving base or precious metals from their natural place in the geological setting and retrieving the solutions from which metals can be recovered.

(5) "Regulated substances" means any materials regulated under a waste discharge permit pursuant to the requirements of chapter 90.48 RCW and/or a permit issued pursuant to chapter ~~((70.94))~~ 70A.15 RCW.

(6) "To mitigate" means: (a) To avoid the adverse impact altogether by not taking a certain action or parts of an action; (b) to minimize adverse impacts by limiting the degree or magnitude of the action and its implementation, by using appropriate technology or by taking affirmative steps to avoid or reduce impacts; (c) to rectify adverse impacts by repairing, rehabilitating, or restoring the affected environment; (d) to reduce or eliminate adverse impacts over time by preservation and maintenance operations during the life of the action; (e) to compensate for the impact by replacing, enhancing, or providing substitute resources or environments; or (f) to monitor the adverse impact and take appropriate corrective measures.

Sec. 85. RCW 78.56.040 and 1994 c 232 s 4 are each amended to read as follows:

The department of ecology shall require each applicant submitting a checklist pursuant to chapter 43.21C RCW for a metals mining and milling operation to disclose the ownership and each controlling interest in the proposed operation. The applicant shall also disclose all other mining operations within the United States which the applicant operates or in which the applicant has an ownership or controlling interest. In addition, the applicant shall disclose and may enumerate and describe the circumstances of: (1) Any past or present bankruptcies involving the ownerships and their subsidiaries, (2) any abandonment of sites regulated by the model toxics control act, chapter ~~((70.105D))~~ 70A.305 RCW, or other similar state remedial cleanup programs, or the federal comprehensive environmental response, compensation, and liability act, 42 U.S.C. Sec. 9601 et seq., as amended, (3) any penalties in excess of ten thousand dollars assessed for violations of the provisions of 33 U.S.C. Sec. 1251 et seq. or 42 U.S.C. Sec. 7401 et seq., and (4) any previous forfeitures of financial assurance due to noncompliance with reclamation or remediation requirements. This information shall be available for public inspection and copying at the department of ecology. Ownership or control of less than ten percent of the stock of a corporation shall not by itself constitute ownership or a controlling interest under this section.

Sec. 86. RCW 78.56.100 and 1994 c 232 s 10 are each amended to read as follows:

(1) In order to receive a waste discharge permit from the department of ecology pursuant to the requirements of chapter 90.48 RCW or in order to operate a metals mining and milling tailing facility, an applicant proposing a metals mining and milling operation regulated under this chapter must meet the following additional requirements:

(a) Any tailings facility shall be designed and operated to prevent the release of pollution and must meet the following standards:

(i) Operators shall apply all known available and reasonable technology to limit the concentration of potentially toxic materials in the tailings facility to assure the protection of wildlife and human health;

(ii) The tailings facility shall have a containment system that includes an engineered liner system, leak detection and leak collection elements, and a seepage collection impoundment to assure that a leak of any regulated substance under chapter 90.48 RCW will be detected before escaping from the containment system. The design and management of the facility must ensure that any leaks from the tailings facility are detected in a manner which allows for remediation pursuant to chapter 90.48 RCW. The applicant shall prepare a detailed engineering report setting forth the facility design and construction. The applicant shall submit the report to the department of ecology for its review and approval of a design as determined by the department. Natural conditions, such as depth to groundwater or net rainfall, shall be taken into account in the facility design, but not in lieu of the protection required by the engineered liner system;

(iii) The toxicity of mine or mill tailings and the potential for long-term release of regulated substances from mine or mill tailings shall be reduced to the greatest extent practicable through stabilization, removal, or reuse of the substances; and

(iv) The closure of the tailings facility shall provide for isolation or containment of potentially toxic materials and shall be designed to prevent future release of regulated substances contained in the impoundment;

(b) The applicant must develop a waste rock management plan approved by the department of ecology and the department of natural resources which emphasizes pollution prevention. At a minimum, the plan must contain the following elements:

(i) An accurate identification of the acid generating properties of the waste rock;

(ii) A strategy for encapsulating potentially toxic material from the environment, when appropriate, in order to prevent the release of heavy metals and acidic drainage; and

(iii) A plan for reclaiming and closing waste rock sites which minimizes infiltration of precipitation and runoff into the waste rock and which is designed to prevent future releases of regulated substances contained within the waste rock;

(c) If an interested citizen or citizen group so requests of the department of ecology, the metals mining and milling operator or applicant shall work with the department of ecology and the interested party to make arrangements for citizen observation and verification in the taking of required water samples. While it is the intent of this subsection to provide for citizen observation and verification of water sampling activities, it is not the intent of this subsection to require additional water sampling and analysis on the part of the mining and milling operation or the department. The citizen observation and verification program shall be incorporated into the applicant's, operator's, or department's normal sampling regimen and shall occur at least once every six months. There is no duty of care on the part of the state or its employees to any person who participates in the citizen observation and verification of water sampling under

chapter 232, Laws of 1994 and the state and its employees shall be immune from any civil lawsuit based on any injuries to or claims made by any person as a result of that person's participation in such observation and verification of water sampling activities. The metals mining and milling operator or applicant shall not be liable for any injuries to or claims made by any person which result from that person coming onto the property of the metals mining and milling operator or applicant as an observer pursuant to chapter 232, Laws of 1994. The results from these and all other relevant water sampling activities shall be kept on file with the relevant county and shall be available for public inspection during normal working hours; and

(d) An operator or applicant for a metals mining and milling operation must complete a voluntary reduction plan in accordance with RCW ~~((70.95C.200))~~ 70A.214.110.

(2) Only those tailings facilities constructed after April 1, 1994, must meet the requirement established in subsection (1)(a) of this section. Only those waste rock holdings constructed after April 1, 1994, must meet the requirement established in subsection (1)(b) of this section.

Sec. 87. RCW 78.56.150 and 1994 c 232 s 15 are each amended to read as follows:

A milling facility which is not adjacent to or in the vicinity of the metals mining operation producing the ore to be milled and which processes precious or base metal ore by treatment or concentration is subject to the provisions of RCW 78.56.010 through 78.56.090, 78.56.100(1) (a), (c), and (d), 78.56.110 through 78.56.140, ~~((70.94.620, and 70.105.300))~~ 70A.15.4520, and 70A.300.470 and chapters ~~((70.94, 70.105))~~ 70A.15, 70A.300, 90.03, and 90.48 RCW and all other applicable laws. The smelting of aluminum does not constitute a metals milling operation under this section.

Sec. 88. RCW 79.100.030 and 2011 c 247 s 4 are each amended to read as follows:

(1) An authorized public entity has the authority, subject to the processes and limitations of this chapter, to store, strip, use, auction, sell, salvage, scrap, or dispose of an abandoned or derelict vessel found on or above aquatic lands within the jurisdiction of the authorized public entity. A vessel disposal must be done in an environmentally sound manner and in accordance with all federal, state, and local laws, including the state solid waste disposal provisions provided for in chapter ~~((70.95))~~ 70A.205 RCW. Scuttling or sinking of a vessel is only permissible after obtaining the express permission of the owner or owners of the aquatic lands below where the scuttling or sinking would occur, and obtaining all necessary state and federal permits or licenses.

(2) The primary responsibility to remove a derelict or abandoned vessel belongs to the owner, operator, or lessee of the moorage facility or the aquatic lands where the vessel is located. If the authorized public entity with the primary responsibility is unwilling or unable to exercise the authority granted by this section, it may request the department to assume the authorized public entity's authority for a particular vessel. The department may at its discretion assume the authorized public entity's authority for a particular vessel after being requested to do so. For vessels not at a moorage facility, an authorized public entity with jurisdiction over the aquatic lands where the vessel is located may, at its

discretion, request to assume primary responsibility for that particular vessel from the owner of the aquatic lands where the vessel is located.

(3) The authority granted by this chapter is permissive, and no authorized public entity has a duty to exercise the authority. No liability attaches to an authorized public entity that chooses not to exercise this authority. An authorized public entity, in the good faith performance of the actions authorized under this chapter, is not liable for civil damages resulting from any act or omission in the performance of the actions other than acts or omissions constituting gross negligence or willful or wanton misconduct. Any person whose assistance has been requested by an authorized public entity, who has entered into a written agreement pursuant to RCW 79.100.070, and who, in good faith, renders assistance or advice with respect to activities conducted by an authorized public entity pursuant to this chapter, is not liable for civil damages resulting from any act or omission in the rendering of the assistance or advice, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

Sec. 89. RCW 79.100.050 and 2002 c 286 s 6 are each amended to read as follows:

(1) After taking custody of a vessel, the authorized public entity may use or dispose of the vessel in any appropriate and environmentally sound manner without further notice to any owners, but must give preference to uses that derive some monetary benefit from the vessel, either in whole or in scrap. If no value can be derived from the vessel, the authorized public entity must give preference to the least costly, environmentally sound, reasonable disposal option. Any disposal operations must be consistent with the state solid waste disposal provisions provided for in chapter ~~((70.95))~~ 70A.205 RCW.

(2) If the authorized public entity chooses to offer the vessel at a public auction, either a minimum bid may be set or a letter of credit may be required, or both, to discourage future reabandonment of the vessel.

(3) Proceeds derived from the sale of the vessel must first be applied to any administrative costs that are incurred by the authorized public entity during the notification procedures set forth in RCW 79.100.040, removal and disposal costs, and costs associated with environmental damages directly or indirectly caused by the vessel. If the proceeds derived from the vessel exceed all administrative costs, removal and disposal costs, and costs associated with environmental damages directly or indirectly caused by the vessel, the remaining moneys must be applied to satisfying any liens registered against the vessel.

(4) Any value derived from a vessel greater than all liens and costs incurred reverts to the derelict vessel removal account established in RCW 79.100.100.

Sec. 90. RCW 79A.05.050 and 2002 c 175 s 52 are each amended to read as follows:

(1) The commission shall establish a policy and procedures for supervising and evaluating community restitution activities that may be imposed under RCW ~~((70.93.060))~~ 70A.200.060(3) including a description of what constitutes satisfactory completion of community restitution.

(2) The commission shall inform each state park of the policy and procedures regarding community restitution activities, and each state park shall then notify the commission as to whether or not the park elects to participate in

the community restitution program. The commission shall transmit a list notifying the district courts of each state park that elects to participate.

Sec. 91. RCW 79A.05.189 and 2013 c 291 s 12 are each amended to read as follows:

(1) Following the inspection required under RCW 79A.05.187 and prior to transferring ownership of a commission-owned vessel, the commission shall obtain the following from the transferee:

(a) The purposes for which the transferee intends to use the vessel; and

(b) Information demonstrating the prospective owner's intent to obtain legal moorage following the transfer, in the manner determined by the commission.

(2)(a) The commission shall remove any containers or other materials that are not fixed to the vessel and contain hazardous substances, as defined under RCW (~~(70.105D.020)~~) 70A.305.020.

(b) However, the commission may transfer a vessel with:

(i) Those containers or materials described under (a) of this subsection where the transferee demonstrates to the commission's satisfaction that the container's or material's presence is consistent with the anticipated use of the vessel; and

(ii) A reasonable amount of fuel as determined by the commission, based on factors including the vessel's size, condition, and anticipated use of the vessel, including initial destination following transfer.

(c) The commission may consult with the department of ecology in carrying out the requirements of this subsection.

(3) Prior to sale, and unless the vessel has a title or valid marine document, the commission is required to apply for a certificate of title for the vessel under RCW 88.02.510 and register the vessel under RCW 88.02.550.

Sec. 92. RCW 80.01.300 and 1971 ex.s. c 293 s 7 are each amended to read as follows:

Nothing contained in the provisions of RCW 36.58A.010 through 36.58A.040 and (~~(70.95.090)~~) 70A.205.045 and this section shall detract from the powers, duties, and functions given to the utilities and transportation commission in chapter 81.77 RCW.

Sec. 93. RCW 80.04.010 and 2011 c 214 s 2 and 2011 c 28 s 1 are each reenacted and amended to read as follows:

As used in this title, unless specifically defined otherwise or unless the context indicates otherwise:

(1) "Automatic location identification" means a system by which information about a caller's location, including the seven-digit number or ten-digit number used to place a 911 call or a different seven-digit number or ten-digit number to which a return call can be made from the public switched network, is forwarded to a public safety answering point for display.

(2) "Automatic number identification" means a system that allows for the automatic display of the seven-digit or ten-digit number used to place a 911 call.

(3) "Battery charging facility" includes a "battery charging station" and a "rapid charging station" as defined in RCW 82.08.816.

(4) "Cogeneration facility" means any machinery, equipment, structure, process, or property, or any part thereof, installed or acquired for the primary

purpose of the sequential generation of electrical or mechanical power and useful heat from the same primary energy source or fuel.

(5) "Commission" means the utilities and transportation commission.

(6) "Commissioner" means one of the members of such commission.

(7) "Competitive telecommunications company" means a telecommunications company which has been classified as such by the commission pursuant to RCW 80.36.320.

(8) "Competitive telecommunications service" means a service which has been classified as such by the commission pursuant to RCW 80.36.330.

(9) "Corporation" includes a corporation, company, association or joint stock association.

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

(11) "Electric plant" includes all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat, or power for hire; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.

(12) "Electrical company" includes any corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever (other than a railroad or street railroad company generating electricity solely for railroad or street railroad purposes or for the use of its tenants and not for sale to others), and every city or town owning, operating or managing any electric plant for hire within this state. "Electrical company" does not include a company or person employing a cogeneration facility solely for the generation of electricity for its own use or the use of its tenants or for sale to an electrical company, state or local public agency, municipal corporation, or quasi municipal corporation engaged in the sale or distribution of electrical energy, but not for sale to others, unless such company or person is otherwise an electrical company.

(13) "Facilities" means lines, conduits, ducts, poles, wires, cables, cross-arms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated, owned or controlled by any telecommunications company to facilitate the provision of telecommunications service.

(14) "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.

(15) "Gas plant" includes all real estate, fixtures and personal property, owned, leased, controlled, used or to be used for or in connection with the transmission, distribution, sale or furnishing of natural gas, or the manufacture, transmission, distribution, sale or furnishing of other type gas, for light, heat or power.

(16) "LATA" means a local access transport area as defined by the commission in conformance with applicable federal law.

(17) "Local exchange company" means a telecommunications company providing local exchange telecommunications service.

(18) "Noncompetitive telecommunications service" means any service which has not been classified as competitive by the commission.

(19) "Person" includes an individual, a firm or partnership.

(20) "Private shared telecommunications services" includes the provision of telecommunications and information management services and equipment within a user group located in discrete private premises in building complexes, campuses, or high-rise buildings, by a commercial shared services provider or by a user association, through privately owned customer premises equipment and associated data processing and information management services and includes the provision of connections to the facilities of a local exchange and to interexchange telecommunications companies.

(21) "Private switch automatic location identification service" means a service that enables automatic location identification to be provided to a public safety answering point for 911 calls originating from station lines served by a private switch system.

(22) "Private telecommunications system" means a telecommunications system controlled by a person or entity for the sole and exclusive use of such person, entity, or affiliate thereof, including the provision of private shared telecommunications services by such person or entity. "Private telecommunications system" does not include a system offered for hire, sale, or resale to the general public.

(23) "Public service company" includes every gas company, electrical company, telecommunications company, wastewater company, and water company. Ownership or operation of a cogeneration facility does not, by itself, make a company or person a public service company.

(24) "Radio communications service company" includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court, and every city or town making available facilities to provide radio communications service, radio paging, or cellular communications service for hire, sale, or resale.

(25) "Service" is used in this title in its broadest and most inclusive sense.

(26) "System of sewerage" means collection, treatment, and disposal facilities and services for sewerage, or storm or surface water runoff.

(27) "Telecommunications" is the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. As used in this definition, "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols.

(28) "Telecommunications company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, operating or managing any facilities used to provide telecommunications for hire, sale, or resale to the general public within this state.

(29)(a) "Wastewater company" means a corporation, company, association, joint stock association, partnership and person, their lessees, trustees, or receivers that owns or proposes to develop and own a system of sewerage that is designed for a peak flow of twenty-seven thousand to one hundred thousand gallons per day if treatment is by a large on-site sewerage system, or to serve one hundred or more customers.

(b) For purposes of commission jurisdiction, wastewater company does not include: (i) Municipal, county, or other publicly owned systems of sewerage; or (ii) wastewater company service to customers outside of an urban growth area as defined in RCW 36.70A.030.

(30)(a) "Water company" includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, controlling, operating, or managing any water system for hire within this state.

(b) For purposes of commission jurisdiction, "water company" does not include any water system serving less than one hundred customers where the average annual gross revenue per customer does not exceed three hundred dollars per year, which revenue figure may be increased annually by the commission by rule adopted pursuant to chapter 34.05 RCW to reflect the rate of inflation as determined by the implicit price deflator of the United States department of commerce. The measurement of customers or revenues must include all portions of water companies having common ownership or control, regardless of location or corporate designation.

(c) "Control" is defined by the commission by rule and does not include management by a satellite agency as defined in chapter ~~((70.116))~~ 70A.100 RCW if the satellite agency is not an owner of the water company.

(d) "Water company" also includes, for auditing purposes only, nonmunicipal water systems which are referred to the commission pursuant to an administrative order from the department, or the city or county as provided in RCW 80.04.110.

(e) Water companies exempt from commission regulation are subject to the provisions of chapter 19.86 RCW. A water company cannot be removed from regulation except with the approval of the commission. Water companies subject to regulation may petition the commission for removal from regulation if the number of customers falls below one hundred or the average annual revenue per customer falls below three hundred dollars. The commission is authorized to maintain continued regulation if it finds that the public interest so requires.

(31) "Water system" includes all real estate, easements, fixtures, personal property, dams, dikes, head gates, weirs, canals, reservoirs, flumes or other structures or appliances operated, owned, used or to be used for or in connection with or to facilitate the supply, storage, distribution, sale, furnishing, diversion, carriage, apportionment or measurement of water for power, irrigation, reclamation, manufacturing, municipal, domestic or other beneficial uses for hire.

Sec. 94. RCW 80.04.110 and 2011 c 214 s 7 are each amended to read as follows:

(1)(a) Complaint may be made by the commission of its own motion or by any person or corporation, chamber of commerce, board of trade, or any commercial, mercantile, agricultural or manufacturing society, or any body politic or municipal corporation, or by the public counsel section of the office of the attorney general, or its successor, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any public service corporation in violation, or claimed to be in violation, of any provision of this title, Title 81 RCW, or of any order or rule of the commission.

(b) No complaint may be entertained by the commission except upon its own motion, as to the reasonableness of the schedule of the rates or charges of any gas company, electrical company, water company, wastewater company, or telecommunications company, unless the same be signed by the mayor, council or commission of the city or town in which the company complained of is engaged in business, or not less than twenty-five consumers or purchasers of such gas, electricity, water, wastewater company services, or telecommunications service, or at least twenty-five percent of the consumers or purchasers of the company's service.

(c) When two or more public service corporations, (meaning to exclude municipal and other public corporations) are engaged in competition in any locality or localities in the state, either may make complaint against the other or others that the rates, charges, rules, regulations or practices of such other or others with or in respect to which the complainant is in competition, are unreasonable, unremunerative, discriminatory, illegal, unfair or intending or tending to oppress the complainant, to stifle competition, or to create or encourage the creation of monopoly, and upon such complaint or upon complaint of the commission upon its own motion, the commission has power, after notice and hearing as in other cases, to, by its order, subject to appeal as in other cases, correct the abuse complained of by establishing such uniform rates, charges, rules, regulations or practices in lieu of those complained of, to be observed by all of such competing public service corporations in the locality or localities specified as is found reasonable, remunerative, nondiscriminatory, legal, and fair or tending to prevent oppression or monopoly or to encourage competition, and upon any such hearing it is proper for the commission to take into consideration the rates, charges, rules, regulations and practices of the public service corporation or corporations complained of in any other locality or localities in the state.

(2) All matters upon which complaint may be founded may be joined in one hearing, and no motion may be entertained against a complaint for misjoinder of complaints or grievances or misjoinder of parties; and in any review of the courts of orders of the commission the same rule shall apply and pertain with regard to the joinder of complaints and parties as herein provided. However, all grievances to be inquired into must be plainly set forth in the complaint. No complaint may be dismissed because of the absence of direct damage to the complainant.

(3) Upon the filing of a complaint, the commission shall cause a copy thereof to be served upon the person or corporation complained of, which must be accompanied by a notice fixing the time when and place where a hearing will be had upon such complaint. The time fixed for such hearing may not be less than ten days after the date of the service of such notice and complaint, excepting as herein provided. The commission shall enter its final order with respect to a complaint filed by any entity or person other than the commission within ten months from the date of filing of the complaint, unless the date is extended for cause. Rules of practice and procedure not otherwise provided for in this title may be prescribed by the commission. Such rules may include the requirement that a complainant use informal processes before filing a formal complaint.

(4)(a) The commission may, as appropriate, audit a nonmunicipal water system upon receipt of an administrative order from the department, or the city or county in which the water system is located, finding that the water delivered by a system does not meet state board of health standards adopted under RCW 43.20.050(2)(a) or standards adopted under chapters (~~(70.116 and 70.119A)~~) 70A.100 and 70A.125 RCW, and the results of the audit must be provided to the requesting department, city, or county. However, the number of nonmunicipal water systems referred to the commission in any one calendar year shall not exceed twenty percent of the water companies subject to commission regulation as defined in RCW 80.04.010.

(b) Every nonmunicipal water system referred to the commission for audit under this section shall pay to the commission an audit fee in an amount, based on the system's twelve-month audited period, equal to the fee required to be paid by regulated companies under RCW 80.24.010.

(5) Any customer or purchaser of service from a water system or company that is subject to commission regulation may file a complaint with the commission if he or she has reason to believe that the water delivered by the system to the customer does not meet state drinking water standards under chapter 43.20 or (~~(70.116)~~) 70A.100 RCW. The commission shall investigate such a complaint, and shall request that the state department of health or local health department of the county in which the system is located test the water for compliance with state drinking water standards, and provide the results of such testing to the commission. The commission may decide not to investigate the complaint if it determines that the complaint has been filed in bad faith, or for the purpose of harassment of the water system or company, or for other reasons has no substantial merit. The water system or company shall bear the expense for the testing. After the commission has received the complaint from the customer and during the pendency of the commission investigation, the water system or company may not take any steps to terminate service to the customer or to collect any amounts alleged to be owed to the company by the customer. The commission may issue an order or take any other action to ensure that no such steps are taken by the system or company. The customer may, at the customer's option and expense, obtain a water quality test by a licensed or otherwise qualified water testing laboratory, of the water delivered to the customer by the water system or company, and provide the results of such a test to the commission. If the commission determines that the water does not meet state drinking water standards, it shall exercise its authority over the system or company as provided in this title, and may, where appropriate, order a refund to the customer on a pro rata basis for the substandard water delivered to the customer, and shall order reimbursement to the customer for the cost incurred by the customer, if any, in obtaining a water quality test.

Sec. 95. RCW 80.04.180 and 1989 c 207 s 3 are each amended to read as follows:

(1) The pendency of any writ of review shall not of itself stay or suspend the operation of the order of the commission, but the superior court in its discretion may restrain or suspend, in whole or in part, the operation of the commission's order pending the final hearing and determination of the suit.

(2) No order so restraining or suspending (2) an order of the commission relating to rates, charges, tolls or rentals, or rules or regulations, practices,

classifications or contracts affecting the same, shall be made by the superior court otherwise than upon three days' notice and after hearing. If a supersedeas is granted the order granting the same shall contain a specific finding, based upon evidence submitted to the court making the order, and identified by reference thereto, that great or irreparable damage would otherwise result to the petitioner, and specifying the nature of the damage. A water company seeking a supersedeas must demonstrate to the court that it is in compliance with the state board of health standards adopted pursuant to RCW 43.20.050 and chapter ((70.116)) 70A.100 RCW relating to the purity, volume, and pressure of water.

(3) In case the order of the commission under review is superseded by the court, it shall require a bond, with good and sufficient surety, conditioned that such company petitioning for such review shall answer for all damages caused by the delay in the enforcement of the order of the commission, and all compensation for whatever sums for transmission or service any person or corporation shall be compelled to pay pending the review proceedings in excess of the sum such person or corporations would have been compelled to pay if the order of the commission had not been suspended.

(4) The court may, in addition to or in lieu of the bond herein provided for, require such other or further security for the payment of such excess charges or damages as it may deem proper.

Sec. 96. RCW 80.28.030 and 2011 c 214 s 13 are each amended to read as follows:

(1) Whenever the commission finds, after such hearing, that the illuminating or heating power, purity or pressure of gas, the efficiency of electric lamp supply, the voltage of the current supplied for light, heat or power, the quality of wastewater company services, or the purity, quality, volume, and pressure of water, supplied by any gas company, electrical company, wastewater company, or water company, as the case may be, is insufficient, impure, inadequate or inefficient, it shall order such improvement in the manufacture, distribution or supply of gas, in the manufacture, transmission or supply of electricity, in the operation of the services and facilities of wastewater companies, or in the storage, distribution or supply of water, or in the methods employed by such gas company, electrical company, wastewater company, or water company, as will in its judgment be efficient, adequate, just and reasonable. Failure of a water company to comply with state board of health standards adopted under RCW 43.20.050(2)(a) or department standards adopted under chapter ((70.116)) 70A.100 RCW for purity, volume, and pressure is prima facie evidence that the water supplied is insufficient, impure, inadequate, or inefficient. Failure of a wastewater company to comply with standards and permit conditions adopted and implemented under chapter ((70.118B)) 70A.115 or 90.48 RCW for treatment and disposal of sewerage, is prima facie evidence that the system of sewerage is insufficient, inadequate, or inefficient.

(2) In ordering improvements in the storage, distribution, or supply of water, the commission shall consult and coordinate with the department of health. In the event that a water company fails to comply with an order of the commission within the deadline specified in the order, the commission may request that the department petition the superior court of Thurston county to place the company in receivership pursuant to chapter 7.60 RCW.

(3) In ordering improvements to the system of sewerage, the commission shall consult and coordinate with the department of health or the department of ecology, as appropriate to the agencies' jurisdiction. In the event that a wastewater company fails to comply with an order of the commission within the deadline specified in the order, the commission may petition the superior court of Thurston county to place the company in receivership pursuant to chapter 7.60 RCW.

Sec. 97. RCW 80.28.110 and 2011 c 214 s 20 are each amended to read as follows:

Every gas company, electrical company, wastewater company, or water company, engaged in the sale and distribution of gas, electricity or water or the provision of wastewater company services, shall, upon reasonable notice, furnish to all persons and corporations who may apply therefor and be reasonably entitled thereto, suitable facilities for furnishing and furnish all available gas, electricity, wastewater company services, and water as demanded, except that a water company may not furnish water contrary to the provisions of water system plans approved under chapter 43.20 or (~~70.116~~) 70A.100 RCW and wastewater companies may not provide services contrary to the approved general sewer plan.

Sec. 98. RCW 80.70.010 and 2004 c 224 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) "Applicant" has the meaning provided in RCW 80.50.020 and includes an applicant for a permit for a fossil-fueled thermal electric generation facility subject to RCW (~~70.94.152~~) 70A.15.2210 and 80.70.020(1) (b) or (d).

(2) "Authority" means any air pollution control agency whose jurisdictional boundaries are coextensive with the boundaries of one or more counties.

(3) "Carbon credit" means a verified reduction in carbon dioxide or carbon dioxide equivalents that is registered with a state, national, or international trading authority or exchange that has been recognized by the council.

(4) "Carbon dioxide equivalents" means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

(5) "Cogeneration credit" means the carbon dioxide emissions that the council, department, or authority, as appropriate, estimates would be produced on an annual basis by a stand-alone industrial and commercial facility equivalent in operating characteristics and output to the industrial or commercial heating or cooling process component of the cogeneration plant.

(6) "Cogeneration plant" means a fossil-fueled thermal power plant in which the heat or steam is also used for industrial or commercial heating or cooling purposes and that meets federal energy regulatory commission standards for qualifying facilities under the public utility regulatory policies act of 1978.

(7) "Commercial operation" means the date that the first electricity produced by a facility is delivered for commercial sale to the power grid.

(8) "Council" means the energy facility site evaluation council created by RCW 80.50.030.

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

(10) "Fossil fuel" means natural gas, petroleum, coal, or any form of solid, liquid, or gaseous fuel derived from such material to produce heat for the generation of electricity.

(11) "Mitigation plan" means a proposal that includes the process or means to achieve carbon dioxide mitigation through use of mitigation projects or carbon credits.

(12) "Mitigation project" means one or more of the following:

(a) Projects or actions that are implemented by the certificate holder or order of approval holder, directly or through its agent, or by an independent qualified organization to mitigate the emission of carbon dioxide produced by the fossil-fueled thermal electric generation facility. This term includes but is not limited to the use of, energy efficiency measures, clean and efficient transportation measures, qualified alternative energy resources, demand side management of electricity consumption, and carbon sequestration programs;

(b) Direct application of combined heat and power (cogeneration);

(c) Verified carbon credits traded on a recognized trading authority or exchange; or

(d) Enforceable and permanent reductions in carbon dioxide or carbon dioxide equivalents through process change, equipment shutdown, or other activities under the control of the applicant and approved as part of a carbon dioxide mitigation plan.

(13) "Order of approval" means an order issued under RCW ((70.94.152)) 70A.15.2210 with respect to a fossil-fueled thermal electric generation facility subject to RCW 80.70.020(1) (b) or (d).

(14) "Permanent" means that emission reductions used to offset emission increases are assured for the life of the corresponding increase, whether unlimited or limited in duration.

(15) "Qualified alternative energy resource" has the same meaning as in RCW 19.29A.090.

(16) "Station generating capability" means the maximum load a generator can sustain over a given period of time without exceeding design limits, and measured using maximum continuous electric generation capacity, less net auxiliary load, at average ambient temperature and barometric pressure.

(17) "Total carbon dioxide emissions" means:

(a) For a fossil-fueled thermal electric generation facility described under RCW 80.70.020(1) (a) and (b), the amount of carbon dioxide emitted over a thirty-year period based on the manufacturer's or designer's guaranteed total net station generating capability, new equipment heat rate, an assumed sixty percent capacity factor for facilities under the council's jurisdiction or sixty percent of the operational limitations on facilities subject to an order of approval, and taking into account any enforceable limitations on operational hours or fuel types and use; and

(b) For a fossil-fueled thermal electric generation facility described under RCW 80.70.020(1) (c) and (d), the amount of carbon dioxide emitted over a thirty-year period based on the proposed increase in the amount of electrical output of the facility that exceeds the station generation capability of the facility prior to the applicant applying for certification or an order of approval pursuant to RCW 80.70.020(1) (c) and (d), new equipment heat rate, an assumed sixty percent capacity factor for facilities under the council's jurisdiction or sixty

percent of the operational limitations on facilities subject to an order of approval, and taking into account any enforceable limitations on operational hours or fuel types and use.

Sec. 99. RCW 80.70.040 and 2004 c 224 s 4 are each amended to read as follows:

(1) The carbon dioxide mitigation option that provides for direct investment shall be implemented through mitigation projects conducted directly by, or under the control of, the certificate holder or order of approval holder.

(2) Mitigation projects must be approved by the council, department, or authority, as appropriate, and made a condition of the proposed and final site certification agreement or order of approval. Direct investment mitigation projects shall be approved if the mitigation projects provide a reasonable certainty that the performance requirements of the mitigation projects will be achieved and the mitigation projects were implemented after July 1, 2004. No certificate holder or order of approval holder shall be required to make direct investments that would exceed the cost of making a lump sum payment to a third party, had the certificate holder or order of approval holder chosen that option under RCW 80.70.020.

(3) Mitigation projects must be fully in place within a reasonable time after the start of commercial operation. Failure to implement an approved mitigation plan is subject to enforcement under chapter 80.50 or ((70.94)) 70A.15 RCW.

(4) The certificate holder or order of approval holder may not use more than twenty percent of the total funds for the selection, monitoring, and evaluation of mitigation projects and the management and enforcement of contracts.

(5)(a) For facilities under the jurisdiction of the council, the implementation of a carbon dioxide mitigation project, other than purchase of a carbon credit shall be monitored by an independent entity for conformance with the performance requirements of the carbon dioxide mitigation plan. The independent entity shall make available the mitigation project monitoring results to the council.

(b) For facilities under the jurisdiction of the department or authority pursuant to RCW 80.70.020(1) (b) or (c), the implementation of a carbon dioxide mitigation project, other than a purchase of carbon dioxide equivalent emission reduction credits, shall be monitored by the department or authority issuing the order of approval.

(6) Upon promulgation of federal requirements for carbon dioxide mitigation for fossil-fueled thermal electric generation facilities, those requirements may be deemed by the council, department, or authority to be equivalent and a replacement for the requirements of this section.

Sec. 100. RCW 81.04.010 and 2007 c 234 s 4 are each amended to read as follows:

As used in this title, unless specially defined otherwise or unless the context indicates otherwise:

(1) "Commission" means the utilities and transportation commission.

(2) "Commissioner" means one of the members of such commission.

(3) "Corporation" includes a corporation, company, association, or joint stock association.

(4) "Low-level radioactive waste site operating company" includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court whatsoever, owning, operating, controlling, or managing a low-level radioactive waste disposal site or sites located within the state of Washington.

(5) "Low-level radioactive waste" means low-level waste as defined by RCW (~~(43.145.010)~~) 70A.380.010.

(6) "Person" includes an individual, a firm, or copartnership.

(7) "Street railroad" includes every railroad by whatsoever power operated, or any extension or extensions, branch or branches thereof, for public use in the conveyance of persons or property for hire, being mainly upon, along, above, or below any street, avenue, road, highway, bridge, or public place within any one city or town, and includes all equipment, switches, spurs, tracks, bridges, right of trackage, subways, tunnels, stations, terminals, and terminal facilities of every kind used, operated, controlled, or owned by or in connection with any such street railroad, within this state.

(8) "Street railroad company" includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court whatsoever, and every city or town, owning, controlling, operating, or managing any street railroad or any cars or other equipment used thereon or in connection therewith within this state.

(9) "Railroad" includes every railroad, other than street railroad, by whatsoever power operated for public use in the conveyance of persons or property for hire, with all facilities and equipment, used, operated, controlled, or owned by or in connection with any such railroad.

(10) "Railroad company" includes every corporation, company, association, joint stock association, partnership, or person, their lessees, trustees, or receivers appointed by any court whatsoever, owning, operating, controlling, or managing any railroad or any cars or other equipment used thereon or in connection therewith within this state.

(11) "Common carrier" includes all railroads, railroad companies, street railroads, street railroad companies, commercial ferries, motor freight carriers, auto transportation companies, charter party carriers and excursion service carriers, private nonprofit transportation providers, solid waste collection companies, household goods carriers, hazardous liquid pipeline companies, and every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court whatsoever, and every city or town, owning, operating, managing, or controlling any such agency for public use in the conveyance of persons or property for hire within this state.

(12) "Vessel" includes every species of watercraft, by whatsoever power operated, for public use in the conveyance of persons or property for hire over and upon the waters within this state, excepting all towboats, tugs, scows, barges, and lighters, and excepting rowboats and sailing boats under twenty gross tons burden, open steam launches of five tons gross and under, and vessels under five tons gross propelled by gas, fluid, naphtha, or electric motors.

(13) "Commercial ferry" includes every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or

receivers, appointed by any court whatsoever, owning, controlling, leasing, operating, or managing any vessel over and upon the waters of this state.

(14) "Transportation of property" includes any service in connection with the receiving, delivery, elevation, transfer in transit, ventilation, refrigeration, icing, storage, and handling of the property transported, and the transmission of credit.

(15) "Transportation of persons" includes any service in connection with the receiving, carriage, and delivery of persons transported and their baggage and all facilities used, or necessary to be used in connection with the safety, comfort, and convenience of persons transported.

(16) "Public service company" includes every common carrier.

(17) The term "service" is used in this title in its broadest and most inclusive sense.

Sec. 101. RCW 81.88.160 and 2020 c 32 s 3 are each amended to read as follows:

(1) Beginning March 15, 2021, and on an annual basis thereafter, each gas pipeline company must submit a report to the commission that includes:

(a) The total number of known leaks in pipelines owned by the gas pipeline company as of January 1st of the year the report is submitted;

(b) The total number of hazardous leaks eliminated or repaired during the previous one-year period ending December 31st;

(c) The total number of nonhazardous leaks eliminated or repaired during the previous one-year period ending December 31st;

(d) The total number of leaks scheduled for repair in the next one-year period beginning January 1st of the year the report is submitted. The data provided in this subsection (1)(d) does not obligate the gas pipeline company to repair all leaks scheduled for repair, nor does it prevent the gas pipeline company from prioritizing its repair schedule based on new information and newly-identified leaks.

(2) Natural gas leaks include all confirmed discoveries of unintentional leak events, including leaks from: Corrosion failure; natural force damage; excavation damage; other outside force damage; pipe, weld, or joint failure; equipment failure; or other causes.

(3) The commission may determine information requirements for the annual reports submitted under subsection (1) of this section including, but not limited to:

(a) The approximate date and location of each leak from the gas pipeline system detected by the company during its routine course of inspection;

(b) The approximate date and location of each leak caused by third-party excavation or other causes not attributable to the normal operation or inspection practices of the company;

(c) Whether the reported leaks are included as part of a filing submitted and approved by the commission under RCW 80.28.420;

(d) The volume of each leak, measured in carbon dioxide equivalents and thousands of cubic feet, except that where an exact volume of gas leaked cannot be identified, a gas pipeline company may provide its best approximation;

(e) Whether the identified cause of each leak was from: Corrosion failure; natural force damage; excavation damage; other outside force damage; pipe, weld, or joint failure; equipment failure; or other causes;

(f) The estimated market value of lost gas and the methodology used to measure the loss of gas; and

(g) Any additional information required in an order approved by the commission.

(4) The commission must use the data reported by gas pipeline companies under this section, as well as other data reported by gas pipeline companies to the commission and to the department of ecology, to estimate the volume of leaked gas and associated greenhouse gas emissions from operational practices in the state. The commission may request additional information by order.

(5) By March 31, 2021, and on an annual basis thereafter, the commission must provide on its public internet web site aggregate data, as submitted by gas pipeline companies under this section, concerning the volume and causes of gas leaks.

(6) By March 31, 2021, and on an annual basis thereafter, the commission must transmit to the department of ecology information on gas leakage in the state, as submitted by gas pipeline companies under this section.

(7) Those portions of reports submitted by gas pipeline companies to the commission under this section that contain proprietary data, trade secrets, or if disclosure would adversely affect public safety, are exempt from public inspection and copying under chapter 42.56 RCW.

(8) For the purposes of this section, "carbon dioxide equivalents" has the same meaning as provided in RCW ((70.235.010)) 70A.45.010.

(9) Nothing in this section may be construed to preempt the process by which a gas pipeline company is required to petition relevant state or local authorities when seeking to expand the capacity of the company's gas transmission or distribution lines.

Sec. 102. RCW 90.44.105 and 1997 c 446 s 1 are each amended to read as follows:

Upon the issuance by the department of an amendment to the appropriate permit or certificate of groundwater right, the holder of a valid right to withdraw public groundwaters may consolidate that right with a groundwater right exempt from the permit requirement under RCW 90.44.050, without affecting the priority of either of the water rights being consolidated. Such a consolidation amendment shall be issued only after publication of a notice of the application, a comment period, and a determination made by the department, in lieu of meeting the conditions required for an amendment under RCW 90.44.100, that: (1) The exempt well taps the same body of public groundwater as the well to which the water right of the exempt well is to be consolidated; (2) use of the exempt well shall be discontinued upon approval of the consolidation amendment to the permit or certificate; (3) legally enforceable agreements have been entered to prohibit the construction of another exempt well to serve the area previously served by the exempt well to be discontinued, and such agreements are binding upon subsequent owners of the land through appropriate binding limitations on the title to the land; (4) the exempt well or wells the use of which is to be discontinued will be properly decommissioned in accordance with chapter 18.104 RCW and the rules of the department; and (5) other existing rights, including ground and surface water rights and minimum streamflows adopted by rule, shall not be impaired. The notice shall be published by the applicant in a newspaper of general circulation in the county or counties in which the wells for

the rights to be consolidated are located once a week for two consecutive weeks. The applicant shall provide evidence of the publication of the notice to the department. The comment period shall be for thirty days beginning on the date the second notice is published.

The amount of the water to be added to the holder's permit or certificate upon discontinuance of the exempt well shall be the average withdrawal from the well, in gallons per day, for the most recent five-year period preceding the date of the application, except that the amount shall not be less than eight hundred gallons per day for each residential connection or such alternative minimum amount as may be established by the department in consultation with the department of health, and shall not exceed five thousand gallons per day. The department shall presume that an amount identified by the applicant as being the average withdrawal from the well during the most recent five-year period is accurate if the applicant establishes that the amount identified for the use or uses of water from the exempt well is consistent with the average amount of water used for similar use or uses in the general area in which the exempt well is located. The department shall develop, in consultation with the department of health, a schedule of average household and small-area landscaping water usages in various regions of the state to aid the department and applicants in identifying average amounts used for these purposes. The presumption does not apply if the department finds credible evidence of nonuse of the well during the required period or credible evidence that the use of water from the exempt well or the intensity of the use of the land supported by water from the exempt well is substantially different than such uses in the general area in which the exempt well is located. The department shall also accord a presumption in favor of approval of such consolidation if the requirements of this subsection are met and the discontinuance of the exempt well is consistent with an adopted coordinated water system plan under chapter ~~((70-116))~~ 70A.100 RCW, an adopted comprehensive land use plan under chapter 36.70A RCW, or other comprehensive watershed management plan applicable to the area containing an objective of decreasing the number of existing and newly developed small groundwater withdrawal wells. The department shall provide a priority to reviewing and deciding upon applications subject to this subsection, and shall make its decision within sixty days of the end of the comment period following publication of the notice by the applicant or within sixty days of the date on which compliance with the state environmental policy act, chapter 43.21C RCW, is completed, whichever is later. The applicant and the department may by prior mutual agreement extend the time for making a decision.

Sec. 103. RCW 26.51.020 and 2020 c 311 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) "Abusive litigation" means litigation where the following apply:

(a)(i) The opposing parties have a current or former intimate partner relationship;

(ii) The party who is filing, initiating, advancing, or continuing the litigation has been found by a court to have committed domestic violence against the other party pursuant to: (A) An order entered under ~~((this))~~ chapter 26.50 RCW; (B) a parenting plan with restrictions based on RCW 26.09.191(2)(a)(iii); or (C) a

restraining order entered under chapter 26.09, 26.26, or 26.26A RCW, provided that the issuing court made a specific finding that the restraining order was necessary due to domestic violence; and

(iii) The litigation is being initiated, advanced, or continued primarily for the purpose of harassing, intimidating, or maintaining contact with the other party; and

(b) At least one of the following factors apply:

(i) Claims, allegations, and other legal contentions made in the litigation are not warranted by existing law or by a reasonable argument for the extension, modification, or reversal of existing law, or the establishment of new law;

(ii) Allegations and other factual contentions made in the litigation are without the existence of evidentiary support; or

(iii) An issue or issues that are the basis of the litigation have previously been filed in one or more other courts or jurisdictions and the actions have been litigated and disposed of unfavorably to the party filing, initiating, advancing, or continuing the litigation.

(2) "Intimate partner" is defined in RCW 26.50.010.

(3) "Litigation" means any kind of legal action or proceeding including, but not limited to: ~~((i))~~ ~~[(a)]~~ (a) Filing a summons, complaint, demand, or petition; ~~((ii))~~ ~~[(b)]~~ (b) serving a summons, complaint, demand, or petition, regardless of whether it has been filed; ~~((iii))~~ ~~[(c)]~~ (c) filing a motion, notice of court date, note for motion docket, or order to appear; ~~((iv))~~ ~~[(d)]~~ (d) serving a motion, notice of court date, note for motion docket, or order to appear, regardless of whether it has been filed or scheduled; ~~((v))~~ ~~[(e)]~~ (e) filing a subpoena, subpoena duces tecum, request for interrogatories, request for production, notice of deposition, or other discovery request; or ~~((vi))~~ ~~[(f)]~~ (f) serving a subpoena, subpoena duces tecum, request for interrogatories, request for production, notice of deposition, or other discovery request.

(4) "Perpetrator of abusive litigation" means a person who files, initiates, advances, or continues litigation in violation of an order restricting abusive litigation.

Sec. 104. RCW 11.130.040 and 2020 c 312 s 303 are each amended to read as follows:

(1) The court shall issue letters of guardianship to a guardian on filing by the guardian of an acceptance of appointment.

(2) The court shall issue letters of conservatorship to a conservator on filing by the conservator of an acceptance of appointment and filing of any required bond or compliance with any other verified receipt required by the court.

(3) Limitations on the powers of a guardian or conservator or on the property subject to conservatorship must be included on the form prescribed by RCW 11.130.660.

(4) The court at any time may limit the powers conferred on a guardian or conservator. The court shall issue new letters of office to reflect the limitation.

(5) A guardian or conservator may not act on behalf of a person under guardianship or conservatorship without valid letters of office.

(6) The clerk of the superior court shall issue letters of guardianship or conservatorship in or substantially in the same form as set forth in RCW 11.130.660.

(7) Letters of office issued to a guardian or conservator who is a nonresident of this state must include the name and contact information for the resident agent of the guardian or conservator, appointed pursuant to RCW 11.130.090(1)(c).

(8) This chapter does not affect the validity of letters of office issued under chapter 11.88 RCW prior to January 1, (~~2021~~) 2022.

Sec. 105. RCW 11.130.245 and 2020 c 312 s 111 are each amended to read as follows:

(1) This chapter does not affect the validity of any court order issued under chapter 26.10 RCW prior to (~~January 1, 2021~~) the repeal of chapter 26.10 RCW. Orders issued under chapter 26.10 RCW prior to (~~January 1, 2021~~) the repeal of chapter 26.10 RCW, remain in effect and do not need to be reissued in a new order under this chapter.

(2) All orders issued under chapter 26.10 RCW prior to the effective date of chapter 437, Laws of 2019 remain operative after the effective date of chapter 437, Laws of 2019. After the effective date of chapter 437, Laws of 2019, if an order issued under chapter 26.10 RCW is modified, the modification is subject to the requirements of this chapter.

Sec. 106. RCW 11.130.670 and 2020 c 312 s 225 are each amended to read as follows:

(1) The certified professional guardianship board must resolve grievances against professional guardians and/or conservators within a reasonable time for alleged violations of the certified professional guardianship board's standards of practice, statutes, regulations, or rules, that relate to the conduct of a certified professional guardian or conservator.

(a) All grievances must initially be reviewed within thirty days by certified professional guardianship board members, or a subset thereof, to determine if the grievance is complete, states facts that describe a violation of the standards of practice, statutes, regulations, or rules, and relates to the conduct of a professional guardian and/or conservator, before investigating, requesting a response from the professional guardian or conservator, or forwarding to the superior courts. To be complete, grievances must provide sufficient details of the alleged conduct to demonstrate that a violation of the statute, regulation, standard of practice, or rule, relating to the conduct of a certified professional guardian or conservator could have occurred, the dates the alleged conduct occurred, and must be signed and dated by the person filing the grievance. Grievance investigations by the board are limited to the allegations contained in the grievance unless, after review by a majority of the members of the certified professional guardianship board, further investigation is justified.

(b) If the certified professional guardianship board determines the grievance is complete, states facts that allege a violation of the certified professional guardianship board's standards of practice, and relates to the conduct of a professional guardian and/or conservator, the certified professional guardianship board must forward that grievance within ten days to the superior court for that guardianship or conservatorship and to the professional guardian and/or conservator. The court must review the matter as set forth in RCW 11.130.140, and must direct the clerk of the court to send a copy of the order entered under this section to the certified professional guardianship board. The certified professional guardianship board must accept as facts any finding of fact

contained in the order. The certified professional guardianship board must act consistently with any finding of fact issued in that order.

(2) Grievances received by the certified professional guardianship board must be investigated and the resolution determined and in process within one hundred eighty days of receipt. The one hundred eighty days is tolled during any period of time when:

(a) The certified professional guardianship board has provided a certified professional guardian or conservator an opportunity to respond to a grievance against the certified professional guardian or conservator and the certified professional guardianship board is awaiting the certified professional guardian or conservator's response;

(b) The certified professional guardianship board has forwarded a grievance to the superior court for review under subsection (1)(b) of this section and is awaiting receipt of the court's entered order with findings; or

(c) A certified professional guardianship board disciplinary hearing has been requested or is in process and during the time of posthearing board review of the hearing officer's recommendations through issuance of a final certified professional guardianship board's order on the matter.

(3) If the grievance cannot be resolved within one hundred eighty days, the certified professional guardianship board must notify the professional guardian and/or conservator. The professional guardian or conservator may propose a resolution of the grievance with facts and/or arguments. The certified professional guardianship board may accept the proposed resolution or determine that an additional ninety days are needed to review the grievance. If the certified professional guardianship board has not resolved the grievance within the additional ninety days the professional guardian or conservator may:

(a) File a motion for a court order to compel the certified professional guardianship board to resolve the grievance within a reasonable time; or

(b) Move for the superior court to resolve the grievance instead of being resolved by the certified professional guardianship board.

(4) The superior court has authority to enforce the certified professional guardianship board's standards of practice in this article to the extent those standards are related to statutory or fiduciary duties of guardians and conservators.

(5) Any unresolved grievances filed with the certified professional guardianship board one year or more before January 1, (~~2021~~) 2022, must be forwarded to the superior court for that guardianship or conservatorship for review by the superior court as set forth in RCW 11.130.140 if the grievance is not in process of a hearing or final resolution.

Sec. 107. RCW 11.130.910 and 2019 c 437 s 804 are each amended to read as follows:

This chapter applies to:

(1) A proceeding for appointment of a guardian or conservator or for a protective arrangement instead of guardianship or conservatorship commenced after January 1, (~~2021~~) 2022; and

(2) A guardianship, conservatorship, or protective arrangement instead of a guardianship or conservatorship in existence on January 1, (~~2021~~) 2022, unless the court finds application of a particular provision of chapter 437, Laws of 2019 would substantially interfere with the effective conduct of the proceeding or

prejudice the rights of a party, in which case the particular provision of chapter 437, Laws of 2019 does not apply and the superseded law applies.

NEW SECTION. Sec. 108. Sections 106 and 107 of this act take effect January 1, 2022.

Passed by the House March 9, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 66

[Substitute House Bill 1209]

NONMEDICAL ASSISTANCE—CIVIL IMMUNITY

AN ACT Relating to immunity protection for nonmedical assistance; and adding a new section to chapter 4.24 RCW.

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) Any person who, without compensation or the expectation of compensation, renders nonmedical care or assistance at the scene of an emergency or disaster shall not be liable for civil damages resulting from any act or omission in the rendering of such care or assistance other than acts or omissions constituting gross negligence or willful or wanton misconduct. Any person rendering such care or assistance during the course of regular employment and receiving compensation or expecting to receive compensation for rendering such care or assistance is excluded from the protection of this section.

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

(a) "Compensation" has its ordinary meaning but does not include: Nominal payments, reimbursement for expenses, or pension benefits; payments made to volunteer part-time and volunteer on-call personnel of fire departments, fire districts, ambulance districts, police departments, or any emergency response organization; or any payment to a person employed as a transit operator who is paid for his or her regular work, which work does not routinely include providing emergency transportation.

(b) "Emergency or disaster" means an event or set of circumstances that:

(i) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrence; 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.

(c) "Nonmedical care or assistance" includes response and rescue operations as well as the provision of such necessities and amenities as food, supplies, shelter, transportation, and child care.

(3)(a) This section does not apply to emergency workers registered in accordance with chapter 38.52 RCW or to the related volunteer organizations to which they may belong.

(b) The immunity granted by this section is in addition to any common law or statutory immunity enjoyed by such person, and nothing in this section abrogates or modifies in any way such common law or statutory immunity.

Passed by the House March 3, 2021.

Passed by the Senate April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 67

[Substitute House Bill 1221]

HOMELESSNESS—DEFINITIONS

AN ACT Relating to standardizing definitions of homelessness to improve access to services; and amending RCW 43.216.505, 13.34.030, 26.44.020, 13.34.065, and 13.34.138.

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

Sec. 1. RCW 43.216.505 and 2019 c 408 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.216.500 through 43.216.559, 43.216.900, and 43.216.901.

(1) "Advisory committee" means the advisory committee under RCW 43.216.520.

(2) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.216.500 through 43.216.550, 43.216.900, and 43.216.901 and are designated as eligible for funding by the department under RCW 43.216.530 and 43.216.540.

(3) "Comprehensive" means an assistance program that focuses on the needs of the child and includes education, health, and family support services.

(4) "Eligible child" means a three to five-year old child who is not age-eligible for kindergarten, is not a participant in a federal or state program providing comprehensive services, and who:

(a) Has a family income at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services;

(b) Is eligible for special education due to disability under RCW 28A.155.020; or

(c) Meets criteria under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program. Preference for enrollment in this group shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

(5) "Family support services" means providing opportunities for parents to:

(a) Actively participate in their child's early childhood program;

(b) Increase their knowledge of child development and parenting skills;

(c) Further their education and training;

(d) Increase their ability to use needed services in the community;

(e) Increase their self-reliance.

(6) "Homeless" means a child without a fixed, regular, and adequate nighttime residence as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter VI, part B) as it existed on January 1, 2021.

Sec. 2. RCW 13.34.030 and 2020 c 312 s 114 are each amended to read as follows:

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

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child," "juvenile," and "youth" mean:

(a) Any individual under the age of eighteen years; or

(b) Any individual age eighteen to twenty-one years who is eligible to receive and who elects to receive the extended foster care services authorized under RCW 74.13.031. A youth who remains dependent and who receives extended foster care services under RCW 74.13.031 shall not be considered a "child" under any other statute or for any other purpose.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

(4) "Department" means the department of children, youth, and families.

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child;

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Is receiving extended foster care services, as authorized by RCW 74.13.031.

(7) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary of the department of social and health services to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age eighteen, which has

continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual.

(8) "Educational liaison" means a person who has been appointed by the court to fulfill responsibilities outlined in RCW 13.34.046.

(9) "Extended foster care services" means residential and other support services the department is authorized to provide under RCW 74.13.031. These services may include placement in licensed, relative, or otherwise approved care, or supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

(10) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding, including a guardian appointed pursuant to chapter 13.36 RCW; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" does not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(11) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

(12) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(13) "Guardianship" means a guardianship pursuant to chapter 13.36 RCW or a limited guardianship of a minor pursuant to RCW 11.130.215 or equivalent laws of another state or a federally recognized Indian tribe.

(14) "Housing assistance" means appropriate referrals by the department or other agencies to federal, state, local, or private agencies or organizations, assistance with forms, applications, or financial subsidies or other monetary assistance for housing. For purposes of this chapter, "housing assistance" is not a remedial service or family reunification service as described in RCW 13.34.025(2).

(15) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

(16) "Nonminor dependent" means any individual age eighteen to twenty-one years who is participating in extended foster care services authorized under RCW 74.13.031.

(17) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(18) "Parent" means the biological or adoptive parents of a child, or an individual who has established a parent-child relationship under RCW 26.26A.100, unless the legal rights of that person have been terminated by a judicial proceeding pursuant to this chapter, chapter 26.33 RCW, or the equivalent laws of another state or a federally recognized Indian tribe.

(19) "Prevention and family services and programs" means specific mental health prevention and treatment services, substance abuse prevention and treatment services, and in-home parent skill-based programs that qualify for federal funding under the federal family first prevention services act, P.L. 115-123. For purposes of this chapter, prevention and family services and programs are not remedial services or family reunification services as described in RCW 13.34.025(2).

(20) "Prevention services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing assistance, capable of preventing the need for out-of-home placement while protecting the child. Prevention services include, but are not limited to, prevention and family services and programs as defined in this section.

(21) "Qualified residential treatment program" means a program licensed as a group care facility under chapter 74.15 RCW that also qualifies for funding under the federal family first prevention services act under 42 U.S.C. Sec. 672(k) and meets the requirements provided in RCW 13.34.420.

(22) "Relative" includes persons related to a child in the following ways:

(a) Any blood relative, including those of half-blood, and including first cousins, second cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;

(b) Stepfather, stepmother, stepbrother, and stepsister;

(c) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance with state law;

(d) Spouses of any persons named in (a), (b), or (c) of this subsection, even after the marriage is terminated;

(e) Relatives, as named in (a), (b), (c), or (d) of this subsection, of any half sibling of the child; or

(f) Extended family members, as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent who provides care in the family abode on a twenty-four hour basis to an Indian child as defined in 25 U.S.C. Sec. 1903(4).

(23) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

(24) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in RCW 13.38.040.

(25) "Social study" means a written evaluation of matters relevant to the disposition of the case that contains the information required by RCW 13.34.430.

(26) "Supervised independent living" includes, but is not limited to, apartment living, room and board arrangements, college or university dormitories, and shared roommate settings. Supervised independent living settings must be approved by the department or the court.

(27) "Voluntary placement agreement" means, for the purposes of extended foster care services, a written voluntary agreement between a nonminor dependent who agrees to submit to the care and authority of the department for the purposes of participating in the extended foster care program.

(28) "Experiencing homelessness" means lacking a fixed, regular, and adequate nighttime residence, including circumstances such as sharing the housing of other persons due to loss of housing, economic hardship, fleeing domestic violence, or a similar reason as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter I) as it existed on January 1, 2021.

Sec. 3. RCW 26.44.020 and 2019 c 172 s 5 are each amended to read as follows:

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

(1) "Abuse or neglect" means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(2) "Child" or "children" means any person under the age of eighteen years of age.

(3) "Child forensic interview" means a developmentally sensitive and legally sound method of gathering factual information regarding allegations of child abuse, child neglect, or exposure to violence. This interview is conducted by a competently trained, neutral professional utilizing techniques informed by research and best practice as part of a larger investigative process.

(4) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the

child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(5) "Child protective services section" means the child protective services section of the department.

(6) "Child who is a candidate for foster care" means a child who the department identifies as being at imminent risk of entering foster care but who can remain safely in the child's home or in a kinship placement as long as services or programs that are necessary to prevent entry of the child into foster care are provided, and includes but is not limited to a child whose adoption or guardianship arrangement is at risk of a disruption or dissolution that would result in a foster care placement. The term includes a child for whom there is reasonable cause to believe that any of the following circumstances exist:

(a) The child has been abandoned by the parent as defined in RCW 13.34.030 and the child's health, safety, and welfare is seriously endangered as a result;

(b) The child has been abused or neglected as defined in this chapter ((26.44 RCW)) and the child's health, safety, and welfare is seriously endangered as a result;

(c) There is no parent capable of meeting the child's needs such that the child is in circumstances that constitute a serious danger to the child's development;

(d) The child is otherwise at imminent risk of harm.

(7) "Children's advocacy center" means a child-focused facility in good standing with the state chapter for children's advocacy centers and that coordinates a multidisciplinary process for the investigation, prosecution, and treatment of sexual and other types of child abuse. Children's advocacy centers provide a location for forensic interviews and coordinate access to services such as, but not limited to, medical evaluations, advocacy, therapy, and case review by multidisciplinary teams within the context of county protocols as defined in RCW 26.44.180 and 26.44.185.

(8) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(9) "Court" means the superior court of the state of Washington, juvenile department.

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

(11) "Family assessment" means a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. Family assessment does not include a determination as to whether child abuse or neglect occurred, but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment.

(12) "Family assessment response" means a way of responding to certain reports of child abuse or neglect made under this chapter using a differential response approach to child protective services. The family assessment response shall focus on the safety of the child, the integrity and preservation of the family, and shall assess the status of the child and the family in terms of risk of abuse and neglect including the parent's or guardian's or other caretaker's capacity and

willingness to protect the child and, if necessary, plan and arrange the provision of services to reduce the risk and otherwise support the family. No one is named as a perpetrator, and no investigative finding is entered in the record as a result of a family assessment.

(13) "Founded" means the determination following an investigation by the department that, based on available information, it is more likely than not that child abuse or neglect did occur.

(14) "Inconclusive" means the determination following an investigation by the department of social and health services, prior to October 1, 2008, that based on available information a decision cannot be made that more likely than not, child abuse or neglect did or did not occur.

(15) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment, or care.

(16) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(17) "Malice" or "maliciously" means an intent, wish, or design to intimidate, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(18) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, experiencing homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

(19) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(20) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner. A person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(21) "Prevention and family services and programs" means specific mental health prevention and treatment services, substance abuse prevention and treatment services, and in-home parent skill-based programs that qualify for federal funding under the federal family first prevention services act, P.L. 115-123. For purposes of this chapter, prevention and family services and programs

are not remedial services or family reunification services as described in RCW 13.34.025(2).

(22) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(23) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(24) "Screened-out report" means a report of alleged child abuse or neglect that the department has determined does not rise to the level of a credible report of abuse or neglect and is not referred for investigation.

(25) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(26) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

(27) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(28) "Unfounded" means the determination following an investigation by the department that available information indicates that, more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur.

(29) "Experiencing homelessness" means lacking a fixed, regular, and adequate nighttime residence, including circumstances such as sharing the housing of other persons due to loss of housing, economic hardship, fleeing domestic violence, or a similar reason as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter I) as it existed on January 1, 2021.

Sec. 4. RCW 13.34.065 and 2019 c 172 s 11 are each amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) If it is likely that the child will remain in shelter care longer than seventy-two hours, the department shall submit a recommendation to the court

as to the further need for shelter care in all cases in which the child will remain in shelter care longer than the seventy-two hour period. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the department to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative. The court shall ask the parents whether the department discussed with them the placement of the child with a relative or other suitable person described in RCW 13.34.130(1)(b) and shall determine what efforts have been made toward such a placement;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home. If the dependency petition or other information before the court alleges that experiencing homelessness or the lack of suitable housing was a significant factor contributing to the removal of the child, the court shall inquire as to whether housing assistance was

provided to the family to prevent or eliminate the need for removal of the child or children;

(e) Is the placement proposed by the department the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in RCW 13.38.040, whether the provisions of the federal Indian child welfare act or chapter 13.38 RCW apply, and whether there is compliance with the federal Indian child welfare act and chapter 13.38 RCW, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative or other suitable person as described in RCW 13.34.130(1)(b), unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. If such relative or other suitable person appears otherwise suitable and competent to provide care and treatment, the fingerprint-based background check need not be completed before placement, but as soon as possible after placement. The court must also determine whether placement with the relative or other suitable person is in the child's best interests. The relative or other suitable person must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;
(ii) Facilitate the child's visitation with siblings, if such visitation is part of the department's plan or is ordered by the court; and

(iii) Cooperate with the department in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative or other suitable person, and the court does not release the child to his or her parent, guardian, or legal custodian, the department shall make reasonable efforts to locate a relative or other suitable person pursuant to RCW 13.34.060(1). In determining placement, the court shall weigh the child's length of stay and attachment to the current provider in determining what is in the best interest of the child.

(d) If a relative or other suitable person is not available, the court shall order continued shelter care and shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other suitable person approved by the court pursuant to this section, shall be contingent upon cooperation with the department's or agency's case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other suitable person, subject to review by the court.

(f) If the child is placed in a qualified residential treatment program as defined in this chapter, the court shall, within sixty days of placement, hold a hearing to:

(i) Consider the assessment required under RCW 13.34.420 and submitted as part of the department's social study, and any related documentation;

(ii) Determine whether placement in foster care can meet the child's needs or if placement in another available placement setting best meets the child's needs in the least restrictive environment; and

(iii) Approve or disapprove the child's placement in the qualified residential treatment program.

(g) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative or other suitable person under (b) of this subsection.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

Sec. 5. RCW 13.34.138 and 2019 c 172 s 13 are each amended to read as follows:

(1) The status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first. The purpose of the hearing shall be to review the progress of the parties and determine whether court supervision should continue.

(a) The initial review hearing shall be an in-court review and shall be set six months from the beginning date of the placement episode or no more than ninety days from the entry of the disposition order, whichever comes first. The requirements for the initial review hearing, including the in-court review requirement, shall be accomplished within existing resources.

(b) The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145(1)(a) or 13.34.134.

(2)(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision by the department shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) Prior to the child returning home, the department must complete the following:

(i) Identify all adults residing in the home and conduct background checks on those persons;

(ii) Identify any persons who may act as a caregiver for the child in addition to the parent with whom the child is being placed and determine whether such persons are in need of any services in order to ensure the safety of the child, regardless of whether such persons are a party to the dependency. The department may recommend to the court and the court may order that placement of the child in the parent's home be contingent on or delayed based on the need for such persons to engage in or complete services to ensure the safety of the child prior to placement. If services are recommended for the caregiver, and the caregiver fails to engage in or follow through with the recommended services, the department must promptly notify the court; and

(iii) Notify the parent with whom the child is being placed that he or she has an ongoing duty to notify the department of all persons who reside in the home or who may act as a caregiver for the child both prior to the placement of the child in the home and subsequent to the placement of the child in the home as long as the court retains jurisdiction of the dependency proceeding or the department is providing or monitoring either remedial services to the parent or services to ensure the safety of the child to any caregivers.

Caregivers may be required to engage in services under this subsection solely for the purpose of ensuring the present and future safety of a child who is a ward of the court. This subsection does not grant party status to any individual not already a party to the dependency proceeding, create an entitlement to services or a duty on the part of the department to provide services, or create judicial authority to order the provision of services to any person other than for the express purposes of this section or RCW 13.34.025 or if the services are unavailable or unsuitable or the person is not eligible for such services.

(c) If the child is not returned home, the court shall establish in writing:

(i) Whether the department is making reasonable efforts to provide services to the family and eliminate the need for placement of the child. If additional services, including housing assistance, are needed to facilitate the return of the child to the child's parents, the court shall order that reasonable services be offered specifying such services;

(ii) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(iii) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(iv) Whether the services set forth in the case plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances;

(v) Whether there is a continuing need for placement;

(vi) Within sixty days of the placement of a child in a qualified residential treatment program as defined in this chapter, and at each review hearing thereafter if the child remains in such a program, the following:

(A) Whether ongoing assessment of the child's strengths and needs continues to support the determination that the child's needs cannot be met through placement in a foster family home;

(B) Whether the child's placement provides the most effective and appropriate level of care in the least restrictive environment;

(C) Whether the placement is consistent with the child's permanency plan;

(D) What specific treatment or service needs will be met in the placement, and how long the child is expected to need the treatment or services; and

(E) What efforts the department has made to prepare the child to return home or be placed with a fit and willing relative as defined in RCW 13.34.030, a Title 13 RCW legal guardian, an adoptive parent, or in a foster family home.

(vii) Whether a parent's experiencing homelessness or lack of suitable housing is a significant factor delaying permanency for the child by preventing the return of the child to the home of the child's parent and whether housing assistance should be provided by the department;

(viii) Whether the child is in an appropriate placement which adequately meets all physical, emotional, and educational needs;

(ix) Whether preference has been given to placement with the child's relatives if such placement is in the child's best interests;

(x) Whether both in-state and, where appropriate, out-of-state placements have been considered;

(xi) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(xii) Whether terms of visitation need to be modified;

(xiii) Whether the court-approved long-term permanent plan for the child remains the best plan for the child;

(xiv) Whether any additional court orders need to be made to move the case toward permanency; and

(xv) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(d) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

(3)(a) In any case in which the court orders that a dependent child may be returned to or remain in the child's home, the in-home placement shall be contingent upon the following:

(i) The compliance of the parents with court orders related to the care and supervision of the child, including compliance with the department's case plan; and

(ii) The continued participation of the parents, if applicable, in available substance abuse or mental health treatment if substance abuse or mental illness was a contributing factor to the removal of the child.

(b) The following may be grounds for removal of the child from the home, subject to review by the court:

(i) Noncompliance by the parents with the department's case plan or court order;

(ii) The parent's inability, unwillingness, or failure to participate in available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect; or

(iii) The failure of the parents to successfully and substantially complete available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect.

(c) In a pending dependency case in which the court orders that a dependent child may be returned home and that child is later removed from the home, the

court shall hold a review hearing within thirty days from the date of removal to determine whether the permanency plan should be changed, a termination petition should be filed, or other action is warranted. The best interests of the child shall be the court's primary consideration in the review hearing.

(4) The court's authority to order housing assistance under this chapter is: (a) Limited to cases in which a parent's experiencing homelessness or lack of suitable housing is a significant factor delaying permanency for the child and housing assistance would aid the parent in providing an appropriate home for the child; and (b) subject to the availability of funds appropriated for this specific purpose. Nothing in this chapter shall be construed to create an entitlement to housing assistance nor to create judicial authority to order the provision of such assistance to any person or family if the assistance or funding are unavailable or the child or family are not eligible for such assistance.

(5) The court shall consider the child's relationship with siblings in accordance with RCW 13.34.130(~~((6))~~) (7).

Passed by the House February 23, 2021.

Passed by the Senate April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 68

[Substitute House Bill 1225]

DEPARTMENT OF HEALTH—SCHOOL-BASED HEALTH CENTER PROGRAM OFFICE

AN ACT Relating to supporting school-based health centers; adding a new section to chapter 43.70 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:

(a) Research shows that school-based health centers provide a crucial link between health and education, improving outcomes for students in both areas;

(b) Health and academic disparities are increasing during the COVID-19 pandemic, particularly for students of color;

(c) School-based health centers advance equity by providing health care access and support at schools;

(d) School-based health centers have been operating across the state for more than 30 years;

(e) Local control and decision making for school-based health centers is important; and

(f) In 2016, the legislature created the Washington integrated student supports protocol as a strategy to close educational opportunity gaps through school-based coordination of academic and nonacademic supports for students.

(2) Therefore, the legislature intends to create a school-based health center program office within the department of health to award grants and coordinate with other agencies and entities to provide support, training, and technical assistance to school-based health centers.

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

(1) The school-based health center program office is established within the department, with the objective to expand and sustain the availability of school-based health center services to K-12 students in public schools, with a focus on historically underserved populations.

(2) Subject to the availability of amounts appropriated for this specific purpose, the school-based health center program office shall:

(a) Develop funding criteria and metrics for monitoring and evaluation in partnership with a statewide nonprofit organization providing training and technical assistance to school-based health centers;

(b) Award grant funding for school-based health centers. The department may grant funding for the following purposes:

(i) Planning a school-based health center;

(ii) Start-up costs associated with setting up a school-based health center; and

(iii) Ongoing costs of operating a school-based health center;

(c) Monitor and evaluate school-based health centers that receive grant funding from the program office;

(d) Partner with a statewide nonprofit organization to provide training and technical assistance to school-based health centers; and

(e) Coordinate with the statewide nonprofit organization providing training and technical assistance, educational service districts, the health care authority, hosting school districts, and the office of the insurance commissioner, to provide support to school-based health centers.

(3) For purposes of this section, a "school-based health center" means a collaboration between the community, the school, and a sponsoring agency that operates the school-based health center, which is a student-focused health center located in or adjacent to a school that provides integrated medical, behavioral health, and other health care services such as dental care.

Passed by the House February 26, 2021.

Passed by the Senate April 7, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 69

[Substitute House Bill 1276]

EMERGENCY SERVICES SUPERVISORY ORGANIZATIONS

AN ACT Relating to providing for certain emergency medical services personnel to work in diversion centers; and amending RCW 18.73.030 and 18.73.130.

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

Sec. 1. RCW 18.73.030 and 2015 c 93 s 5 are each amended to read as follows:

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

(1) "Advanced life support" means invasive emergency medical services requiring advanced medical treatment skills as defined by chapter 18.71 RCW.

(2) "Aid service" means an organization that operates one or more aid vehicles.

(3) "Aid vehicle" means a vehicle used to carry aid equipment and individuals trained in first aid or emergency medical procedure.

(4) "Ambulance" means a ground or air vehicle designed and used to transport the ill and injured and to provide personnel, facilities, and equipment to treat patients before and during transportation.

(5) "Ambulance service" means an organization that operates one or more ambulances.

(6) "Basic life support" means noninvasive emergency medical services requiring basic medical treatment skills as defined in this chapter (~~(18.73 RCW)~~).

(7) "Communications system" means a radio and landline network which provides rapid public access, coordinated central dispatching of services, and coordination of personnel, equipment, and facilities in an emergency medical services and trauma care system.

(8) "Council" means the local or regional emergency medical services and trauma care council as authorized under chapter 70.168 RCW.

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

(10) "Emergency medical service" means medical treatment and care which may be rendered at the scene of any medical emergency or while transporting any patient in an ambulance to an appropriate medical facility, including ambulance transportation between medical facilities.

(11) "Emergency medical services medical program director" means a person who is an approved medical program director as defined by RCW 18.71.205(4).

(12) "Emergency medical technician" means a person who is authorized by the secretary to render emergency medical care pursuant to RCW 18.73.081 or, under the responsible supervision and direction of an approved medical program director, to participate in an emergency services supervisory organization or a community assistance referral and education services program established under RCW 35.21.930 if the participation does not exceed the participant's training and certification.

(13) "Emergency services supervisory organization" means an entity that is authorized by the secretary to use certified emergency medical services personnel to provide medical evaluation or initial treatment, or both, to sick or injured people, while in the course of duties with the organization for on-site medical care prior to any necessary activation of emergency medical services. Emergency services supervisory organizations include law enforcement agencies, disaster management organizations, search and rescue operations, diversion centers, and businesses with organized industrial safety teams.

(14) "First responder" means a person who is authorized by the secretary to render emergency medical care as defined by RCW 18.73.081.

~~((14))~~ (15) "Patient care procedures" means written operating guidelines adopted by the regional emergency medical services and trauma care council, in consultation with the local emergency medical services and trauma care councils, emergency communication centers, and the emergency medical services medical program director, in accordance with statewide minimum standards. The patient care procedures shall identify the level of medical care personnel to be dispatched to an emergency scene, procedures for triage of patients, the level of trauma care facility to first receive the patient, and the name

and location of other trauma care facilities to receive the patient should an interfacility transfer be necessary. Procedures on interfacility transfer of patients shall be consistent with the transfer procedures in chapter 70.170 RCW.

~~((15))~~ (16) "Prehospital patient care protocols" means the written procedure adopted by the emergency medical services medical program director which direct the out-of-hospital emergency care of the emergency patient which includes the trauma care patient. These procedures shall be based upon the assessment of the patient's medical needs and what treatment will be provided for emergency conditions. The protocols shall meet or exceed statewide minimum standards developed by the department in rule as authorized in chapter 70.168 RCW.

~~((16))~~ (17) "Secretary" means the secretary of the department of health.

~~((17))~~ (18) "Stretcher" means a cart designed to serve as a litter for the transportation of a patient in a prone or supine position as is commonly used in the ambulance industry, such as wheeled stretchers, portable stretchers, stair chairs, solid backboards, scoop stretchers, basket stretchers, or flexible stretchers. The term does not include personal mobility aids that recline at an angle or remain at a flat position, that are owned or leased for a period of at least one week by the individual using the equipment or the individual's guardian or representative, such as wheelchairs, personal gurneys, or banana carts.

Sec. 2. RCW 18.73.130 and 2000 c 93 s 18 are each amended to read as follows:

An ambulance service or aid service may not operate in the state of Washington without holding a license for such operation, issued by the secretary when such operation is consistent with the statewide and regional emergency medical services and trauma care plans established pursuant to chapter 70.168 RCW, indicating the general area to be served and the number of vehicles to be used, with the following exceptions:

(1) The United States government;

(2) Ambulance services providing service in other states when bringing patients into this state;

(3) Owners of businesses in which ambulance or aid vehicles are used exclusively on company property but occasionally in emergencies may transport patients to hospitals not on company property; ~~((and))~~

(4) Operators of vehicles pressed into service for transportation of patients in emergencies when licensed ambulances are not available or cannot meet overwhelming demand; and

(5) Emergency services supervisory organizations, as defined in RCW 18.73.030(13). All entities that employ certified emergency medical services personnel must ensure that such personnel work under the medical oversight and protocols of a medical program director and within their scope of practice, are able to meet certification training requirements, and are provided with necessary medical equipment to provide care at their level of certification.

The license shall be valid for a period of two years and shall be renewed on request provided the holder has consistently complied with the regulations of the department and the department of licensing and provided also that the needs of the area served have been met satisfactorily. The license shall not be transferable and may be revoked if the service is found in violation of rules adopted by the department.

Passed by the House February 23, 2021.
 Passed by the Senate April 6, 2021.
 Approved by the Governor April 16, 2021.
 Filed in Office of Secretary of State April 16, 2021.

CHAPTER 70

[Substitute House Bill 1301]

REGIONAL TRANSIT AUTHORITY FARE ENFORCEMENT—OPTIONS

AN ACT Relating to providing expanded options for fare enforcement by regional transit authorities; and amending RCW 81.112.210 and 81.112.220.

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

Sec. 1. RCW 81.112.210 and 2015 3rd sp.s. c 44 s 330 are each amended to read as follows:

(1)(a) An authority is authorized to establish, by resolution, a schedule of fines and penalties for civil infractions established in RCW 81.112.220. Fines established by an authority shall not exceed those imposed for class 1 infractions under RCW 7.80.120.

(b) An authority is further authorized to establish, by resolution, an alternative fare enforcement system, which may include: (i) The issuance of notices of violation subject to fines not exceeding the amounts authorized in (a) of this subsection or nonmonetary sanctions or both, and (ii) resolve notices of violations and appeals, in addition to or as a replacement for the schedule of fines and penalties authorized by (a) of this subsection.

(2)(a) An authority may designate persons to monitor fare payment who are equivalent to and are authorized to exercise all the powers of an enforcement officer, defined in RCW 7.80.040. An authority is authorized to employ personnel to either monitor fare payment, or to contract for such services, or both.

(b) In addition to the specific powers granted to enforcement officers under RCW 7.80.050 and 7.80.060, persons designated to monitor fare payment also have the authority to take the following actions:

- (i) Request proof of payment from passengers;
- (ii) Request personal identification from a passenger who does not produce proof of payment when requested;
- (iii)(A) Issue a notice of infraction for a civil infraction established in RCW 81.112.220.

(B) The notice of infraction form to be used for violations under this subsection must be approved by the administrative office of the courts and must not include vehicle information; ~~(and)~~

(iv) Issue a notice of violation of the alternative fare enforcement system authorized in subsection (1)(b) of this section; and

(v) Request that a passenger leave the authority facility when the passenger has not produced proof of payment after being asked to do so by a person designated to monitor fare payment.

(3) Authorities shall keep records of citations in the manner prescribed by RCW 7.80.150. All civil infractions established by chapter 20, Laws of 1999

shall be heard ~~((and determined by a district or municipal court))~~ as provided in RCW 7.80.010 (1), (2), and (4).

Sec. 2. RCW 81.112.220 and 2012 c 68 s 3 are each amended to read as follows:

(1) Persons traveling on facilities operated by an authority shall pay the fare established by the authority and shall produce proof of payment in accordance with the terms of use established by the authority. Such persons shall produce proof of payment when requested by a person designated to monitor fare payment. The required manner of producing proof of payment specified in the terms of use established by the authority may include, but is not limited to, requiring a person using an electronic fare payment card to validate the card by presenting the card to an electronic card reader before or upon entering a public transportation vehicle or a restricted fare paid area.

(2) The following constitute civil infractions punishable according to the schedule of fines and penalties established by the authority under RCW 81.112.210(1)(a) or violations punishable according to an alternative fare enforcement system established by the authority under RCW 81.112.210(1)(b):

(a) Failure to pay the required fare, except when the authority fails to meet the requirements of subsection (3) of this section;

(b) Failure to produce proof of payment in the manner required by the terms of use established by the authority including, but not limited to, the failure to produce a validated fare payment card when requested to do so by a person designated to monitor fare payment; and

(c) Failure to depart the facility when requested to do so by a person designated to monitor fare payment.

(3) If fare payment is required before entering a transit vehicle, as defined in RCW 9.91.025(2)(b), or before entering a fare paid area in a transit facility, as defined in RCW 9.91.025(2)(a), signage must be conspicuously posted at the place of boarding or within ~~((ten))~~ 10 feet of the nearest entrance to a transit facility that clearly indicates: (a) The locations where tickets or fare media may be purchased; and (b) that a person using an electronic fare payment card must present the card to an electronic card reader before entering a transit vehicle or before entering a restricted fare paid area.

Passed by the House March 3, 2021.

Passed by the Senate April 7, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 71

[Substitute House Bill 1302]

COLLEGE IN THE HIGH SCHOOL PROGRAMS

AN ACT Relating to college in the high school programs; amending RCW 28A.600.290, 28A.300.560, 28A.320.196, 28B.10.035, 28B.76.730, and 28B.95.020; and adding a new section to chapter 28A.600 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.600 RCW to read as follows:

(1) College in the high school is a dual credit program located on a high school campus or in a high school environment in which a high school student is able to earn both high school and college credit by completing college level courses with a passing grade. A college in the high school program must meet the accreditation requirements in RCW 28B.10.035 and the requirements in this section.

(2) A college in the high school program may include both academic and career and technical education.

(3) Ninth, 10th, 11th, and 12th grade students, and students who have not yet received a high school diploma or its equivalent and are eligible to be in the ninth, 10th, 11th, or 12th grades, may participate in a college in the high school program.

(4) A college in the high school program must be governed by a local contract between an institution of higher education and a school district, charter school, or state-tribal compact school, in compliance with the rules adopted by the superintendent of public instruction under this section. The local contract must include the qualifications for students to enroll in a program course.

(5)(a) An institution of higher education may charge tuition fees per credit to each student enrolled in a program course as established in this subsection (5).

(b)(i) The maximum per college credit tuition fee for a program course is \$65 per college credit adjusted for inflation using the implicit price deflator for that fiscal year, using fiscal year 2021 as the base, as compiled by the bureau of labor statistics, United States department of labor for the state of Washington.

(ii) Annually by July 1st, the office of the superintendent of public instruction must calculate the maximum per college credit tuition fee and post the fee on its website.

(c) The funds received by an institution of higher education under this subsection (5) are not tuition or operating fees and may be retained by the institution of higher education.

(6) Enrollment information on persons registered under this section must be maintained by the institution of higher education separately from other enrollment information and may not be included in official enrollment reports, nor may such persons be considered in any enrollment statistics that would affect higher education budgetary determinations.

(7) Each school district, charter school, and state-tribal compact school must award high school credit to a student enrolled in a program course if the student successfully completes the course. If no comparable course is offered by the school district, charter school, or state-tribal compact school, the chief administrator shall determine how many credits to award for the successful completion of the program course. The determination must be made in writing before the student enrolls in the program course. The awarded credit must be applied toward graduation requirements and subject area requirements. Evidence of successful completion of each program course must be included in the student's high school records and transcript.

(8) An institution of higher education must award college credit to a student enrolled in a program course if the student successfully completes the course. The awarded college credit must be applied toward general education requirements or degree requirements at the institution of higher education.

Evidence of successful completion of each program course must be included in the student's college transcript.

(9)(a) A high school that offers a college in the high school program must provide general information about the program to all students in grades eight through 12 and to the parents and guardians of those students.

(b) A high school that offers a college in the high school program must include the following information about program courses in the high school catalogue or equivalent:

(i) There is no fee for students to enroll in a program course to earn only high school credit. Fees apply for students who choose to enroll in a program course to earn both high school and college credit;

(ii) A description and breakdown of the fees charged to students to earn college credit;

(iii) A description of fee payment and financial assistance options available to students; and

(iv) A notification that paying for college credit automatically starts an official college transcript with the institution of higher education offering the program course regardless of student performance in the program course, and that college credit earned upon successful completion of a program course may count only as elective credit if transferred to another institution of higher education.

(10) Full-time and part-time faculty at institutions of higher education, including adjunct faculty, are eligible to teach program courses.

(11) Students enrolled in a program course may pay college in the high school fees with advanced college tuition payment program tuition units at a rate set by the advanced college tuition payment program governing body under chapter 28B.95 RCW.

(12) The superintendent of public instruction shall adopt rules for the administration of this section. The rules must be jointly developed by the superintendent of public instruction, the state board for community and technical colleges, the student achievement council, and the public baccalaureate institutions. The association of Washington school principals must be consulted during the rules development. The rules must outline quality and eligibility standards that are informed by nationally recognized standards or models. In addition, the rules must encourage the maximum use of the program and may not narrow or limit the enrollment options.

(13) The definitions in this subsection apply throughout this section.

(a) "Charter school" means a school established under chapter 28A.710 RCW.

(b) "High school" means a public school, as defined in RCW 28A.150.010, that serves students in any of grades nine through 12.

(c) "Institution of higher education" has the same meaning as in RCW 28B.10.016, and also means a public tribal college located in Washington and accredited by the Northwest commission on colleges and universities or another accrediting association recognized by the United States department of education.

(d) "Program course" means a college course offered in a high school under a college in the high school program.

(e) "State-tribal compact school" means a school established under chapter 28A.715 RCW.

Sec. 2. RCW 28A.600.290 and 2015 c 202 s 3 are each amended to read as follows:

(1)(a) Subject to the availability of amounts appropriated for this specific purpose and commencing with the 2015-16 school year, funding may be allocated at an amount per college credit for eleventh and twelfth grade students ~~((or))~~ and students who have not yet received a high school diploma or its equivalent and are eligible to be in the eleventh or twelfth grade, who are enrolled in college in the high school courses under ~~((this))~~ section 1 of this act as specified in the omnibus appropriations act and adjusted for inflation from the 2015-16 school year. The maximum annual number of allocated credits per participating student shall be specified in the omnibus appropriations act, which must not exceed ten credits. Funding shall be prioritized in the following order:

(i) High schools offering a running start in the high school program in school year 2014-15. These schools shall only receive prioritized funding in school year 2015-16;

(ii) Students whose residence or the high school in which they are enrolled is located twenty driving miles or more as measured by the most direct route from the nearest eligible institution of higher education offering a running start program, whichever is greater; and

(iii) High schools eligible for the small school funding enhancement in the omnibus appropriations act.

(b)(i) Subject to the availability of amounts appropriated for this specific purpose and commencing with the 2015-16 school year, and only after the programs in (a) of this subsection are funded, a subsidy may be provided per college credit for eleventh and twelfth grade students ~~((or))~~ and students who have not yet received a high school diploma or its equivalent and are eligible to be in the eleventh or twelfth grade, who have been deemed eligible for free or reduced-price lunch and are enrolled in college in the high school courses under ~~((this))~~ section 1 of this act as specified in the omnibus appropriations act and adjusted for inflation from the 2015-16 school year. The maximum annual number of subsidized credits per participating student shall be specified in the omnibus appropriations act, which must not exceed five credits.

(ii) Districts wishing to participate in the subsidy program must apply to the office of the superintendent of public instruction by July 1st of each year and report the preliminary estimate of eligible students to receive the subsidy and the total number of projected credit hours.

(iii) The office of the superintendent of public instruction shall notify districts by September 1st of each school year if the district's students will receive the subsidy. If more districts apply than funding is available, the office of the superintendent of public instruction shall prioritize the district applications. The superintendent shall develop factors to determine priority including, but not limited to, the number of dual credit opportunities available for low-income students in the districts.

(c) Districts shall remit any allocations or subsidies on behalf of participating students under (a) and (b) of this subsection to the participating institution of higher education and those students shall not be required to pay for the credits.

~~((d) The minimum allocation and subsidy under this section is sixty five dollars per quarter credit for credit-bearing postsecondary coursework. The~~

~~office of the superintendent of public instruction, the student achievement council, the state board for community and technical colleges, and the public baccalaureate institutions shall review funding levels for the program every four years beginning in 2017 and recommend changes.~~

~~(c) Students may pay college in the high school fees with advanced college tuition payment program tuition units at a rate set by the advanced college tuition payment program governing body under chapter 28B.95 RCW.~~

~~(2) For the purposes of funding students enrolled in the college in the high school program in accordance with subsection (1) of this section, college in the high school is defined as a dual credit program located on a high school campus or in a high school environment in which a high school student is able to earn both high school and postsecondary credit by completing postsecondary level courses with a passing grade.~~

~~(3) College in the high school programs may include both academic and career and technical education.~~

~~(4) College in the high school programs shall each be governed by a local contract between the district and the participating institution of higher education, in compliance with the rules adopted by the superintendent of public instruction under this section.~~

~~(5) The college in the high school program must include the provisions in this subsection.~~

~~(a) The high school and participating institution of higher education together shall define the criteria for student eligibility. The institution of higher education may charge tuition fees to participating students. If specific funding is provided in the omnibus appropriations act for the per credit allocations and per credit subsidies under subsection (1) of this section, the maximum per credit fee charged to any enrolled student may not exceed the amount of the per credit allocation or subsidy.~~

~~(b) The funds received by the participating institution of higher education may not be deemed tuition or operating fees and may be retained by the institution of higher education.~~

~~(c) Enrollment information on persons registered under this section must be maintained by the institution of higher education separately from other enrollment information and may not be included in official enrollment reports; nor may such persons be considered in any enrollment statistics that would affect higher education budgetary determinations.~~

~~(d) A school district must grant high school credit to a student enrolled in a program course if the student successfully completes the course. If no comparable course is offered by the school district, the school district superintendent shall determine how many credits to award for the course. The determination shall be made in writing before the student enrolls in the course. The credits shall be applied toward graduation requirements and subject area requirements. Evidence of successful completion of each program course shall be included in the student's secondary school records and transcript.~~

~~(e) A participating institution of higher education must grant college credit to a student enrolled in a program course if the student successfully completes the course. The college credit shall be applied toward general education requirements or degree requirements at institutions of higher education.~~

Evidence of successful completion of each program course must be included in the student's college transcript.

~~(f) Tenth, eleventh, and twelfth grade students or students who have not yet received a high school diploma or its equivalent and are eligible to be in the tenth, eleventh, or twelfth grades may participate in the college in the high school program.~~

~~(g) Participating school districts must provide general information about the college in the high school program to all students in grades nine through twelve and to the parents and guardians of those students.~~

~~(h) Full-time and part-time faculty at institutions of higher education, including adjunct faculty, are eligible to teach program courses.~~

~~(6) The superintendent of public instruction shall adopt rules for the administration of this section. The rules shall be jointly developed by the superintendent of public instruction, the state board for community and technical colleges, the student achievement council, and the public baccalaureate institutions. The association of Washington school principals must be consulted during the rules development. The rules must outline quality and eligibility standards that are informed by nationally recognized standards or models. In addition, the rules must encourage the maximum use of the program and may not narrow or limit the enrollment options.~~

~~(7)) (2) The definitions in this subsection apply throughout this section.~~

~~(a) "Institution of higher education" has the definition in RCW 28B.10.016, and also includes a public tribal college located in Washington and accredited by the Northwest commission on colleges and universities or another accrediting association recognized by the United States department of education.~~

~~(b) "Program course" means a college course offered in a high school under the college in the high school program.~~

Sec. 3. RCW 28A.300.560 and 2013 c 184 s 4 are each amended to read as follows:

In addition to data on student enrollment in dual credit courses, the office of the superintendent of public instruction shall collect and post on the Washington state report card website the rates at which students earn college credit through a dual credit course, using the following criteria:

- (1) Students who achieve a score of three or higher on an AP examination;
- (2) Students who achieve a score of four or higher on an examination of the international baccalaureate diploma programme;
- (3) Students who successfully complete a Cambridge advanced international certificate of education examination;
- (4) Students who successfully complete a course through the college in the high school program under ~~((RCW 28A.600.290))~~ section 1 of this act and are awarded credit by the partnering institution of higher education; ~~((and))~~
- (5) Students who satisfy the dual enrollment and class performance requirements to earn college credit through a tech prep course; and
- (6) Students who successfully complete a course through the running start program under RCW 28A.600.300 and are awarded credit by the institution of higher education.

Sec. 4. RCW 28A.320.196 and 2015 c 202 s 2 are each amended to read as follows:

(1) Subject to funds appropriated specifically for this purpose, the academic acceleration incentive program is established as provided in this section. The intent of the legislature is that the funds awarded under the program be used to support teacher training, curriculum, technology, examination fees, textbook fees, and other costs associated with offering dual credit courses to high school students, including transportation for running start students to and from the institution of higher education as defined in RCW 28A.600.300.

(2) The office of the superintendent of public instruction shall allocate half of the funds appropriated for the purposes of this section on a competitive basis to provide one-time grants for high schools to expand the availability of dual credit courses. To be eligible for a grant, a school district must have adopted an academic acceleration policy as provided under RCW 28A.320.195. In making grant awards, the office of the superintendent of public instruction must give priority to grants for high schools with a high proportion of low-income students and high schools seeking to develop new capacity for dual credit courses rather than proposing marginal expansion of current capacity.

(3) The office of the superintendent of public instruction shall allocate half of the funds appropriated for the purposes of this section to school districts as an incentive award for each student who earned dual high school and college credit, as described under subsection (4) of this section, for courses offered by the district's high schools during the previous school year. School districts must distribute the award to the high schools that generated the funds. The award amount for low-income students eligible to participate in the federal free and reduced-price meals program who earn dual credits must be set at one hundred twenty-five percent of the base award for other students. A student who earns more than one dual credit in the same school year counts only once for the purposes of the incentive award.

(4) For the purposes of this section, the following students are considered to have earned dual high school and college credit in a course offered by a high school:

- (a) Students who achieve a score of three or higher on an AP examination;
- (b) Students who achieve a score of four or higher on an examination of the international baccalaureate diploma programme;
- (c) Students who successfully complete a Cambridge advanced international certificate of education examination;
- (d) Students who successfully complete a course through the college in the high school program under (~~RCW 28A.600.290~~) section 1 of this act and are awarded credit by the partnering institution of higher education; and
- (e) Students who satisfy the dual enrollment and class performance requirements to earn college credit through a tech prep course.

(5) If a high school provides access to online courses for students to earn dual high school and college credit at no cost to the student, such a course is considered to be offered by the high school.

(6) The office of the superintendent of public instruction shall report to the education policy committees and the fiscal committees of the legislature, by January 1st of each year, information about the demographics of the students earning dual credits in the schools receiving grants under this section for the prior school year. Demographic data shall be disaggregated pursuant to RCW 28A.300.042.

Sec. 5. RCW 28B.10.035 and 2019 c 272 s 1 are each amended 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) "College in the high school program" is a program that meets the requirements of section 1 of this act.

(b) "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))~~ (c) "Public high school" means a high school that is a public school as defined in RCW 28A.150.010.

Sec. 6. RCW 28B.76.730 and 2020 c 259 s 1 are each amended to read as follows:

(1) The legislature recognizes that dual credit programs reduce both the cost and time of attendance to obtain a postsecondary degree. The legislature intends to reduce barriers and increase access to postsecondary educational opportunities for low-income students by removing the financial barriers for dual enrollment programs for students.

(2) The office, in consultation with the institutions of higher education and the office of the superintendent of public instruction, shall create the Washington dual enrollment scholarship pilot program. The office shall administer the Washington dual enrollment scholarship pilot program and may adopt rules as necessary.

(3) Eligible students are those who meet the following requirements:

(a) Qualify for the free or reduced-price lunch program;

(b) Are enrolled in one or more dual credit programs, as defined in RCW 28B.15.821, such as college in the high school and running start; and

(c) Have at least a 2.0 grade point average.

(4) Subject to availability of amounts appropriated for this specific purpose, beginning with the 2019-20 academic year, the office may award scholarships to eligible students. The scholarship award must be as follows:

(a) For eligible students enrolled in running start:

(i) Mandatory fees, as defined in RCW 28A.600.310(2), prorated based on credit load;

(ii) Course fees or laboratory fees as determined appropriate by college or university policies to pay for specified course related costs;

(iii) A textbook voucher to be used at the institution of higher education's bookstore where the student is enrolled. For every credit per quarter the student is enrolled, the student shall receive a textbook voucher for ten dollars, up to a maximum of fifteen credits per quarter, or the equivalent, per year; and

(iv) Apprenticeship materials as determined appropriate by the college or university to pay for specific course-related material costs, which may include occupation-specific tools, work clothes, rain gear, or boots.

(b) An eligible student enrolled in a college in the high school program may receive a scholarship for tuition fees as set forth under ~~((RCW 28A.600.290(5)(a)))~~ section 1 of this act.

(5) The Washington dual enrollment scholarship pilot program must apply after the fee waivers for low-income students under RCW 28A.600.310 and subsidies under RCW 28A.600.290 are provided for.

Sec. 7. RCW 28B.95.020 and 2018 c 188 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) "Academic year" means the regular nine-month, three-quarter, or two-semester period annually occurring between August 1st and July 31st.

(2) "Account" means the Washington advanced college tuition payment program account established for the deposit of all money received by the office from eligible purchasers and interest earnings on investments of funds in the account, as well as for all expenditures on behalf of eligible beneficiaries for the

redemption of tuition units and for the development of any authorized college savings program pursuant to RCW 28B.95.150.

(3) "Advisor sold" means a channel through which a broker dealer, investment advisor, or other financial intermediary recommends the Washington college savings program established pursuant to RCW 28B.95.010 to eligible investors and assists with the opening and servicing of individual college savings program accounts.

(4) "College savings program account" means the Washington college savings program account established pursuant to RCW 28B.95.085.

(5) "Committee on advanced tuition payment and college savings" or "committee" means a committee of the following members: The state treasurer, the director of the office of financial management, the director of the office, or their designees, and two members to be appointed by the governor, one representing program participants and one private business representative with marketing, public relations, or financial expertise.

(6) "Contractual obligation" means a legally binding contract of the state with the purchaser and the beneficiary establishing that purchases of tuition units in the advanced college tuition payment program will be worth the same number of tuition units at the time of redemption as they were worth at the time of the purchase, except as provided in RCW 28B.95.030 (7) and (8).

(7) "Dual credit fees" means any fees charged to a student for participation in college in the high school under (~~RCW 28A.600.290~~) section 1 of this act or running start under RCW 28A.600.310.

(8) "Eligible beneficiary" means the person designated as the individual whose education expenses are to be paid from the advanced college tuition payment program or the college savings program. Qualified organizations, as allowed under section 529 of the federal internal revenue code, purchasing tuition unit contracts as future scholarships need not designate a beneficiary at the time of purchase.

(9) "Eligible contributor" means an individual or organization that contributes money for the purchase of tuition units, and for an individual college savings program account established pursuant to this chapter for an eligible beneficiary.

(10) "Eligible purchaser" means an individual or organization that has entered into a tuition unit contract with the governing body for the purchase of tuition units in the advanced college tuition payment program for an eligible beneficiary, or that has entered into a participant college savings program account contract for an eligible beneficiary. The state of Washington may be an eligible purchaser for purposes of purchasing tuition units to be held for granting Washington college bound scholarships.

(11) "Full-time tuition charges" means resident tuition charges at a state institution of higher education for enrollments between ten credits and eighteen credit hours per academic term.

(12) "Governing body" means the committee empowered by the legislature to administer the Washington advanced college tuition payment program and the Washington college savings program.

(13) "Individual college savings program account" means the formal record of transactions relating to a Washington college savings program beneficiary.

(14) "Institution of higher education" means an institution that offers education beyond the secondary level and is recognized by the internal revenue service under chapter 529 of the internal revenue code.

(15) "Investment board" means the state investment board as defined in chapter 43.33A RCW.

(16) "Investment manager" means the state investment board, another state, or any other entity as selected by the governing body, including another college savings plan established pursuant to section 529 of the internal revenue code.

(17) "Office" means the office of student financial assistance as defined in chapter 28B.76 RCW.

(18) "Owner" means the eligible purchaser or the purchaser's successor in interest who shall have the exclusive authority to make decisions with respect to the tuition unit contract or the individual college savings program contract. The owner has exclusive authority and responsibility to establish and change the asset investment options for a beneficiaries' individual college savings program account.

(19) "Participant college savings program account contract" means a contract to participate in the Washington college savings program between an eligible purchaser and the office.

(20) "State institution of higher education" means institutions of higher education as defined in RCW 28B.10.016.

(21) "Tuition and fees" means undergraduate tuition and services and activities fees as defined in RCW 28B.15.020 and 28B.15.041 rounded to the nearest whole dollar. For purposes of this chapter, services and activities fees do not include fees charged for the payment of bonds heretofore or hereafter issued for, or other indebtedness incurred to pay, all or part of the cost of acquiring, constructing, or installing any lands, buildings, or facilities.

(22) "Tuition unit contract" means a contract between an eligible purchaser and the governing body, or a successor agency appointed for administration of this chapter, for the purchase of tuition units in the advanced college tuition payment program for a specified beneficiary that may be redeemed at a later date for an equal number of tuition units, except as provided in RCW 28B.95.030 (7) and (8).

(23) "Unit cash value price" means the total value of assets under management in the advanced college tuition payment program on a date to be determined by the committee, divided by the total number of outstanding units purchased by eligible purchasers before July 1, 2015, and any outstanding units accrued by eligible purchasers as a result of the July 2017 unit rebase. For purposes of this calculation, the total market value of assets shall exclude the total accumulated market value of proceeds from units purchased after June 30, 2015.

(24) "Unit purchase price" means the minimum cost to purchase one tuition unit in the advanced college tuition payment program for an eligible beneficiary. Generally, the minimum purchase price is one percent of the undergraduate tuition and fees for the current year, rounded to the nearest whole dollar, adjusted for the costs of administration and adjusted to ensure the actuarial soundness of the account. The analysis for price setting shall also include, but not be limited to consideration of past and projected patterns of tuition increases, program

liability, past and projected investment returns, and the need for a prudent stabilization reserve.

Passed by the House February 23, 2021.

Passed by the Senate April 7, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 72

[Substitute House Bill 1331]

IMPACT FEES—EARLY LEARNING FACILITIES

AN ACT Relating to early learning facility impact fees; and amending RCW 82.02.060.

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

Sec. 1. RCW 82.02.060 and 2012 c 200 s 1 are each amended to read as follows:

The local ordinance by which impact fees are imposed:

(1) Shall include a schedule of impact fees which shall be adopted for each type of development activity that is subject to impact fees, specifying the amount of the impact fee to be imposed for each type of system improvement. The schedule shall be based upon a formula or other method of calculating such impact fees. In determining proportionate share, the formula or other method of calculating impact fees shall incorporate, among other things, the following:

(a) The cost of public facilities necessitated by new development;

(b) An adjustment to the cost of the public facilities for past or future payments made or reasonably anticipated to be made by new development to pay for particular system improvements in the form of user fees, debt service payments, taxes, or other payments earmarked for or prorable to the particular system improvement;

(c) The availability of other means of funding public facility improvements;

(d) The cost of existing public facilities improvements; and

(e) The methods by which public facilities improvements were financed;

(2) May provide an exemption for low-income housing, and other development activities with broad public purposes, including development of an early learning facility, from these impact fees, provided that the impact fees for such development activity shall be paid from public funds other than impact fee accounts;

(3)(a) May not impose an impact fee on development activities of an early learning facility greater than that imposed on commercial retail or commercial office development activities that generate a similar number, volume, type, and duration of vehicle trips;

(b) When a facility or development has more than one use, the limitations in this subsection (3) or the exemption applicable to an early learning facility in subsections (2) and (4) of this section only apply to that portion that is developed as an early learning facility. The impact fee assessed on an early learning facility in such a development or facility may not exceed the least of the impact fees assessed on comparable businesses in the facility or development;

(4) May provide an exemption from impact fees for low-income housing or for early learning facilities. Local governments that grant exemptions for low-

income housing or for early learning facilities under this subsection ~~((3))~~ (4) may either: Grant a partial exemption of not more than eighty percent of impact fees, in which case there is no explicit requirement to pay the exempted portion of the fee from public funds other than impact fee accounts; or provide a full waiver, in which case the remaining percentage of the exempted fee must be paid from public funds other than impact fee accounts~~(-)~~, except as provided in (b) of this subsection. These exemptions are subject to the following requirements:

(a) An exemption for low-income housing granted under subsection (2) of this section or this subsection ~~((3))~~ (4) must be conditioned upon requiring the developer to record a covenant that, except as provided otherwise by this subsection, prohibits using the property for any purpose other than for low-income housing. At a minimum, the covenant must address price restrictions and household income limits for the low-income housing, and that if the property is converted to a use other than for low-income housing, the property owner must pay the applicable impact fees in effect at the time of conversion~~(-Covenants required by this subsection must be recorded with the applicable county auditor or recording officer. A local government granting an exemption under subsection (2) of this section or this subsection (3) for low-income housing may not collect revenue lost through granting an exemption by increasing impact fees unrelated to the exemption. A school district who receives school impact fees must approve any exemption under subsection (2) of this section or this subsection (3))~~;

~~((4))~~ (b) An exemption for early learning facilities granted under subsection (2) of this section or this subsection (4) may be a full waiver without an explicit requirement to pay the exempted portion of the fee from public funds other than impact fee accounts if the local government requires the developer to record a covenant that requires that at least 25 percent of the children and families using the early learning facility qualify for state subsidized child care, including early childhood education and assistance under chapter 43.216 RCW, and that provides that if the property is converted to a use other than for an early learning facility, the property owner must pay the applicable impact fees in effect at the time of conversion, and that also provides that if at no point during a calendar year does the early learning facility achieve the required percentage of children and families qualified for state subsidized child care using the early learning facility, the property owner must pay 20 percent of the impact fee that would have been imposed on the development had there not been an exemption within 90 days of the local government notifying the property owner of the breach, and any balance remaining thereafter shall be a lien on the property; and

(c) Covenants required by (a) and (b) of this subsection must be recorded with the applicable county auditor or recording officer. A local government granting an exemption under subsection (2) of this section or this subsection (4) for low-income housing or an early learning facility may not collect revenue lost through granting an exemption by increasing impact fees unrelated to the exemption. A school district who receives school impact fees must approve any exemption under subsection (2) of this section or this subsection (4);

(5) Shall provide a credit for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the developer, to facilities that are identified in the capital facilities plan and that

are required by the county, city, or town as a condition of approving the development activity;

~~((5))~~ (6) Shall allow the county, city, or town imposing the impact fees to adjust the standard impact fee at the time the fee is imposed to consider unusual circumstances in specific cases to ensure that impact fees are imposed fairly;

~~((6))~~ (7) Shall include a provision for calculating the amount of the fee to be imposed on a particular development that permits consideration of studies and data submitted by the developer to adjust the amount of the fee;

~~((7))~~ (8) Shall establish one or more reasonable service areas within which it shall calculate and impose impact fees for various land use categories per unit of development; and

~~((8))~~ (9) May provide for the imposition of an impact fee for system improvement costs previously incurred by a county, city, or town to the extent that new growth and development will be served by the previously constructed improvements provided such fee shall not be imposed to make up for any system improvement deficiencies.

For purposes of this section, "low-income housing" means housing with a monthly housing expense, that is no greater than thirty percent of eighty percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development.

For the purposes of this section, "early learning facility" has the same meaning as in RCW 43.31.565.

Passed by the House February 24, 2021.

Passed by the Senate April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 73

[Engrossed Substitute House Bill 1332]

PROPERTY TAX DEFERRAL—COVID-19 PANDEMIC

AN ACT Relating to property tax deferral during the COVID-19 pandemic; amending RCW 84.56.020; providing an expiration date; and declaring an emergency.

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

Sec. 1. RCW 84.56.020 and 2019 c 332 s 1 are each amended to read as follows:

Treasurers' tax collection duties.

(1) The county treasurer must be the receiver and collector of all taxes extended upon the tax rolls of the county, whether levied for state, county, school, bridge, road, municipal or other purposes, and also of all fines, forfeitures or penalties received by any person or officer for the use of his or her county. No treasurer may accept tax payments or issue receipts for the same until the treasurer has completed the tax roll for the current year's collection and provided notification of the completion of the roll. Notification may be accomplished electronically, by posting a notice in the office, or through other written communication as determined by the treasurer. All real and personal property taxes and assessments made payable by the provisions of this title are

due and payable to the county treasurer on or before the thirtieth day of April and, except as provided in this section, are delinquent after that date.

Tax statements.

(2)(a) Tax statements for the current year's collection must be distributed to each taxpayer on or before March 15th provided that:

(i) All city and other taxing district budgets have been submitted to county legislative authorities by November 30th per RCW 84.52.020;

(ii) The county legislative authority in turn has certified taxes levied to the county assessor by November 30th per RCW 84.52.070; and

(iii) The county assessor has delivered the tax roll to the county treasurer by January 15th per RCW 84.52.080.

(b) Each tax statement must include a notice that checks for payment of taxes may be made payable to "Treasurer of County" or other appropriate office, but tax statements may not include any suggestion that checks may be made payable to the name of the individual holding the office of treasurer nor any other individual.

(c) Each tax statement distributed to an address must include a notice with information describing the:

(i) Property tax exemption program pursuant to RCW 84.36.379 through 84.36.389; and

(ii) Property tax deferral program pursuant to chapter 84.38 RCW.

Tax payment due dates.

On-time tax payments: First-half taxes paid by April 30th and second-half taxes paid by October 31st.

(3) When the total amount of tax or special assessments on personal property or on any lot, block or tract of real property payable by one person is fifty dollars or more, and if one-half of such tax is paid on or before the thirtieth day of April, the remainder of such tax is due and payable on or before the following thirty-first day of October and is delinquent after that date.

Delinquent tax payments for current year: First-half taxes paid after April 30th.

(4) When the total amount of tax or special assessments on any lot, block or tract of real property or on any mobile home payable by one person is fifty dollars or more, and if one-half of such tax is paid after the thirtieth day of April but before the thirty-first day of October, together with the applicable interest and penalty on the full amount of tax payable for that year, the remainder of such tax is due and payable on or before the following thirty-first day of October and is delinquent after that date.

Delinquent tax payments: Interest, penalties, and treasurer duties.

(5) Except as provided in (c) of this subsection, delinquent taxes under this section are subject to interest at the rate of twelve percent per annum computed on a monthly basis on the amount of tax delinquent from the date of delinquency until paid. Interest must be calculated at the rate in effect at the time of the tax payment, regardless of when the taxes were first delinquent. In addition, delinquent taxes under this section are subject to penalties as follows:

(a) A penalty of three percent of the amount of tax delinquent is assessed on the tax delinquent on June 1st of the year in which the tax is due.

(b) An additional penalty of eight percent is assessed on the delinquent tax amount on December 1st of the year in which the tax is due.

(c) If a taxpayer is successfully participating in a payment agreement under subsection (15)(b) of this section or a partial payment program pursuant to subsection (15)(c) of this section, the county treasurer may not assess additional penalties on delinquent taxes that are included within the payment agreement. Interest and penalties that have been assessed prior to the payment agreement remain due and payable as provided in the payment agreement.

(6) A county treasurer must provide notification to each taxpayer whose taxes have become delinquent under subsections (4) and (5) of this section. The delinquency notice must specify where the taxpayer can obtain information regarding:

(a) Any current tax or special assessments due as of the date of the notice;

(b) Any delinquent tax or special assessments due, including any penalties and interest, as of the date of the notice; and

(c) Where the taxpayer can pay his or her property taxes directly and contact information, including but not limited to the phone number, for the statewide foreclosure hotline recommended by the Washington state housing finance commission.

(7) Within ninety days after the expiration of two years from the date of delinquency (when a taxpayer's taxes have become delinquent), the county treasurer must provide the name and property address of the delinquent taxpayer to a homeownership resource center or any other designated local or state entity recommended by the Washington state housing finance commission.

Collection of foreclosure costs.

(8)(a) When real property taxes become delinquent and prior to the filing of the certificate of delinquency, the treasurer is authorized to assess and collect tax foreclosure avoidance costs.

(b) When tax foreclosure avoidance costs are collected, such costs must be credited to the county treasurer service fund account, except as otherwise directed.

(c) For purposes of chapter 84.64 RCW, any taxes, interest, or penalties deemed delinquent under this section remain delinquent until such time as all taxes, interest, and penalties for the tax year in which the taxes were first due and payable have been paid in full.

Periods of armed conflict.

(9) Subsection (5) of this section notwithstanding, no interest or penalties may be assessed during any period of armed conflict regarding delinquent taxes imposed on the personal residences owned by active duty military personnel who are participating as part of one of the branches of the military involved in the conflict and assigned to a duty station outside the territorial boundaries of the United States.

State of emergency.

(10) (~~During~~) (a) Except as provided in (b) of this subsection, during a state of emergency declared under RCW 43.06.010(12), the county treasurer, on his or her own motion or at the request of any taxpayer affected by the emergency, may grant extensions of the due date of any taxes payable under this section as the treasurer deems proper.

(b)(i) Due to the state of emergency declared under RCW 43.06.010(12) related to the novel coronavirus, the county treasurer must grant an extension of the due date of any unpaid, nondelinquent taxes payable in 2021, if an eligible

taxpayer demonstrates to the county treasurer's satisfaction a loss of at least 25 percent of its revenue attributable to that real property for calendar year 2020 compared to calendar year 2019.

(ii)(A) Eligible taxpayers must request an extension under this subsection from the county treasurer solely upon forms developed or approved by the department. The county treasurer must deny any extension request that is not filed with the county treasurer by April 30, 2021.

(B) An eligible taxpayer requesting an extension under this subsection (10)(b) must certify under penalty of perjury in accordance with chapter 5.50 RCW that the information contained in the extension request is true and correct.

(C) County treasurers may grant an extension under this subsection (10)(b) based solely on the information provided in a person's request for extension. County treasurers may, but are not required to, independently verify the information submitted in a request for extension.

(iii) A county treasurer granting an extension under this subsection (10)(b) must establish a payment plan for the taxes subject to the extension. The county treasurer may determine the payment schedule and other terms of the payment plan.

(A) In setting terms for the payment plan, the county treasurer must consider cash flow and other impacts on all relevant taxing jurisdictions. The county treasurer must prioritize payment plan expenditures to protect scheduled bond payments, and otherwise has discretion as to how payments made under the payment plan are expended.

(B) A taxing jurisdiction must report to the county treasurer its current fund balance by April 30, 2021. If granting the extension under this subsection (10)(b) results in any taxing jurisdiction being unable to make scheduled bond payments, then the county treasurer may choose not to grant extensions under this subsection (10)(b).

(C) Penalties and interest do not apply to the taxes due under the payment plan so long as the eligible taxpayer fully complies with all the terms of the payment plan.

(iv) The county treasurer must process all requests for extension under this subsection (10)(b) by June 30, 2021.

(v) The department may, to the extent feasible, considering available resources and data limitations, assist the county treasurer, upon request, in determining whether a person requesting an extension under this subsection (10)(b) is an eligible taxpayer.

(vi) The department may, in its sole discretion, at the request of a county treasurer or on its own initiative, audit any person receiving an extension under this subsection (10)(b) to determine if the person was eligible for such extension. The powers of the department under chapter 84.08 RCW apply to these audits.

(vii) Any owner of real property receiving an extension under this subsection (10)(b) must pass the entire benefit of the extension to any tenant, and such tenant to any sublessee, if the tenant or sublessee is required by the lease or other contract to pay the property tax expense of the owner. Neither county treasurers nor the department have any responsibility for enforcing this subsection (10)(b)(vii).

(viii) The department may adopt rules it deems necessary to administer this subsection (10)(b).

(ix) The department is authorized to provide its opinion, if any, to a county treasurer as to whether a person meets the qualifications for an extension under this subsection (10)(b). However, nothing in this subsection (10)(b) requires the department to disclose to a county treasurer details of the revenues of a person requesting or receiving an extension under this subsection (10)(b).

(x) For purposes of this subsection (10)(b), the following definitions apply:

(A) "Attributable" means generated from the leasing or renting of real property or from a person's business activities conducted in, or directed or managed from, real property.

(B) "Eligible taxpayer" means an owner or person responsible for payment of tax on any real property primarily used for business purposes who has experienced a loss of at least 25 percent of its revenue attributable to that real property for calendar year 2020 compared to calendar year 2019.

(C) "Revenue" means gross revenue, including gross income of the business as defined in RCW 82.04.080 and gross income as defined in RCW 82.16.010.

Retention of funds from interest.

(11) All collections of interest on delinquent taxes must be credited to the county current expense fund.

(12) For purposes of this chapter, "interest" means both interest and penalties.

Retention of funds from property foreclosures and sales.

(13) The direct cost of foreclosure and sale of real property, and the direct fees and costs of distraint and sale of personal property, for delinquent taxes, must, when collected, be credited to the operation and maintenance fund of the county treasurer prosecuting the foreclosure or distraint or sale; and must be used by the county treasurer as a revolving fund to defray the cost of further foreclosure, distraint, and sale because of delinquent taxes without regard to budget limitations and not subject to indirect costs of other charges.

Tax due dates and options for tax payment collections.

Electronic billings and payments.

(14) For purposes of this chapter, and in accordance with this section and RCW 36.29.190, the treasurer may collect taxes, assessments, fees, rates, interest, and charges by electronic billing and payment. Electronic billing and payment may be used as an option by the taxpayer, but the treasurer may not require the use of electronic billing and payment. Electronic bill presentment and payment may be on a monthly or other periodic basis as the treasurer deems proper for:

- (a) Delinquent tax year payments; and
- (b) Prepayments of current tax.

Tax payments.

Prepayment for current taxes.

(15)(a) The treasurer may accept prepayments for current year taxes by any means authorized. All prepayments must be paid in full by the due date specified in subsection (16) of this section.

Payment agreements for current year taxes.

(b)(i) The treasurer may provide, by electronic means or otherwise, a payment agreement that provides for payment of current year taxes, inclusive of prepayment collection charges. The payment agreement must be signed by the taxpayer and treasurer or the treasurer's deputy prior to the sending of an

electronic or alternative bill, which includes a payment plan for current year taxes.

Payment agreements for delinquent year taxes.

(ii)(A) The treasurer may provide, by electronic means or otherwise, a payment agreement for payment of past due delinquencies. The payment agreement must be signed by the taxpayer and treasurer or the treasurer's deputy prior to the sending of an electronic or alternative bill, which includes a payment plan for past due delinquent taxes and charges.

(B) Tax payments received by a treasurer for delinquent year taxes from a taxpayer participating on a payment agreement must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

Partial payments: Acceptance of partial payments for current and delinquent taxes.

(c)(i) In addition to the payment agreement program in (b) of this subsection, the treasurer may accept partial payment of any current and delinquent taxes including interest and penalties by any means authorized including electronic bill presentment and payments.

(ii) All tax payments received by a treasurer for delinquent year taxes from a taxpayer paying a partial payment must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

Payment for delinquent taxes.

(d) Payments on past due taxes must include collection of the oldest delinquent year, which includes interest, penalties, and taxes within an eighteen-month period, prior to filing a certificate of delinquency under chapter 84.64 RCW or distraint pursuant to RCW 84.56.070.

Due date for tax payments.

(16) All taxes upon real and personal property made payable by the provisions of this title are due and payable to the treasurer on or before the thirtieth day of April and are delinquent after that date. The remainder of the tax is due and payable on or before the following thirty-first of October and is delinquent after that date. All other assessments, fees, rates, and charges are delinquent after the due date.

Electronic funds transfers.

(17) A county treasurer may authorize payment of:

(a) Any current property taxes due under this chapter by electronic funds transfers on a monthly or other periodic basis; and

(b) Any past due property taxes, penalties, and interest under this chapter by electronic funds transfers on a monthly or other periodic basis. Delinquent taxes are subject to interest and penalties, as provided in subsection (5) of this section. All tax payments received by a treasurer from a taxpayer paying delinquent year taxes must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

Payment for administering repayment collections.

(18) The treasurer must pay any collection costs, investment earnings, or both on past due payments or prepayments to the credit of a county treasurer service fund account to be created and used only for the payment of expenses incurred by the treasurer, without limitation, in administering the system for collecting repayments.

Waiver of interest and penalties for qualified taxpayers subject to foreclosure.

(19) No earlier than sixty days prior to the date that is three years after the date of delinquency, the treasurer must waive all outstanding interest and penalties on delinquent taxes due from a taxpayer if the property is subject to an action for foreclosure under chapter 84.64 RCW and the following requirements are met:

(a) The taxpayer is income-qualified under RCW 84.36.381(5)(a), as verified by the county assessor;

(b) The taxpayer occupies the property as their principal place of residence; and

(c) The taxpayer has not previously received a waiver on the property as provided under this subsection.

Definitions.

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

(a) "Electronic billing and payment" means statements, invoices, or bills that are created, delivered, and paid using the internet. The term includes an automatic electronic payment from a person's checking account, debit account, or credit card.

(b) "Internet" has the same meaning as provided in RCW 19.270.010.

(c) "Tax foreclosure avoidance costs" means those direct costs associated with the administration of properties subject to and prior to foreclosure. Tax foreclosure avoidance costs include:

(i) Compensation of employees for the time devoted to administering the avoidance of property foreclosure; and

(ii) The cost of materials, services, or equipment acquired, consumed, or expended in administering tax foreclosure avoidance prior to the filing of a certificate of delinquency.

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.

NEW SECTION. Sec. 3. This act expires January 1, 2022.

Passed by the House April 14, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 74

[Engrossed House Bill 1342]

REDUCED-PRICE SCHOOL LUNCH—COPAY ELIMINATION

AN ACT Relating to eliminating lunch copays for students who qualify for reduced-price lunches; amending RCW 28A.235.160; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature recognizes that the challenges and difficulties of food insecurity affect Washington households throughout the state. The legislature recognizes also that many families rely on the food and

nutritional benefits of reduced-price school lunches, and that hungry students face additional barriers to academic success.

The legislature further recognizes that the state's 2019-2021 omnibus operating appropriations act includes funding for eliminating lunch copays for qualifying kindergarten through third grade students, and that extending this copay elimination to students in prekindergarten and the fourth through 12th grades is an appropriate and cost-effective way to promote the health and academic success of students who qualify for reduced-price lunches.

Sec. 2. RCW 28A.235.160 and 2005 c 287 s 1 are each amended to read as follows:

(1) For the purposes of this section:

(a) "Free or reduced-price lunch" means a lunch served by a school district participating in the national school lunch program to a student qualifying for national school lunch program benefits based on family size-income criteria.

(b) "Lunch copay" means the amount a student who qualifies for a reduced-price lunch is charged for a reduced-price lunch.

(c) "School lunch program" means a meal program meeting the requirements defined by the superintendent of public instruction under subsection (2)(b) of this section.

~~((e))~~ (d) "School breakfast program" means a program meeting federal requirements defined in 42 U.S.C. Sec. 1773.

~~((d))~~ (e) "Severe-need school" means a school that qualifies for a severe-need school reimbursement rate from federal funds for school breakfasts served to children from low-income families.

~~((e))~~ (f) "Summer food service program" means a meal or snack program meeting the requirements defined by the superintendent of public instruction under subsection (4) of this section.

(2) School districts shall implement a school lunch program in each public school in the district in which educational services are provided to children in any of the grades kindergarten through four and in which twenty-five percent or more of the enrolled students qualify for a free or reduced-price lunch. In developing and implementing its school lunch program, each school district may consult with an advisory committee including school staff, community members, and others appointed by the board of directors of the district.

(a) Applications to determine free or reduced-price lunch eligibility shall be distributed and collected for all households of children in schools containing any of the grades kindergarten through four and in which there are no United States department of agriculture child nutrition programs. The applications that are collected must be reviewed to determine eligibility for free or reduced-price lunches. Nothing in this section shall be construed to require completion or submission of the application by a parent or guardian.

(b) Using the most current available school data on free and reduced-price lunch eligibility, the superintendent of public instruction shall adopt a schedule for implementation of school lunch programs at each school required to offer such a program under subsection (2) of this section as follows:

(i) Schools not offering a school lunch program and in which twenty-five percent or more of the enrolled students are eligible for free or reduced-price lunch shall implement a school lunch program not later than the second day of school in the 2005-06 school year and in each school year thereafter.

(ii) The superintendent shall establish minimum standards defining the lunch meals to be served, and such standards must be sufficient to qualify the meals for any available federal reimbursement.

(iii) Nothing in this section shall be interpreted to prevent a school from implementing a school lunch program earlier than the school is required to do so.

(3) To ~~((the))~~ the extent funds are appropriated for this purpose, each school district shall implement a school breakfast program in each school where more than forty percent of students eligible to participate in the school lunch program qualify for free or reduced-price meal reimbursement by the school year 2005-06. For the second year before the implementation of the district's school breakfast program, and for each subsequent school year, each school district shall submit data enabling the superintendent of public instruction to determine which schools within the district will qualify for this requirement. Schools where lunch programs start after the 2003-04 school year, where forty percent of students qualify for free or reduced-price meals, must begin school breakfast programs the second year following the start of a lunch program.

(4) Each school district shall implement a summer food service program in each public school in the district in which a summer program of academic, enrichment, or remedial services is provided and in which ~~((fifty))~~ 50 percent or more of the children enrolled in the school qualify for free or reduced-price lunch. However, the superintendent of public instruction shall develop rules establishing criteria to permit an exemption for a school that can demonstrate availability of an adequate alternative summer feeding program. Sites providing meals should be open to all children in the area, unless a compelling case can be made to limit access to the program. The superintendent of public instruction shall adopt a definition of compelling case and a schedule for implementation as follows:

(a) Beginning the summer of 2005 if the school currently offers a school breakfast or lunch program; or

(b) Beginning the summer following the school year during which a school implements a school lunch program under subsection (2)(b) of this section.

(5) Schools not offering a breakfast or lunch program may meet the meal service requirements of subsections (2)(b) and (4) of this section through any of the following:

(a) Preparing the meals on-site;

(b) Receiving the meals from another school that participates in a United States department of agriculture child nutrition program; or

(c) Contracting with a nonschool entity that is a licensed food service establishment under RCW 69.07.010.

(6) Requirements that school districts have a school lunch, breakfast, or summer nutrition program under this section shall not create or imply any state funding obligation for these costs. The legislature does not intend to include these programs within the state's obligation for basic education funding under Article IX of the state Constitution.

(7) Beginning in the 2021-22 school year, school districts with school lunch programs must eliminate lunch copays for students in prekindergarten through 12th grade who qualify for reduced-price lunches, and the superintendent of public instruction must allocate funding for this purpose.

(8) The requirements in this section shall lapse if the federal reimbursement for any school breakfasts, lunches, or summer food service programs is eliminated.

~~((8))~~ (9) School districts may be exempted from the requirements of this section by showing good cause why they cannot comply with the office of the superintendent of public instruction to the extent that such exemption is not in conflict with federal or state law. The process and criteria by which school districts are exempted shall be developed by the office of the superintendent of public instruction in consultation with representatives of school directors, school food service, community-based organizations and the Washington state PTA.

Passed by the House February 12, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 75

[Engrossed Second Substitute House Bill 1382]

HABITAT RESTORATION PROJECTS—ENVIRONMENTAL PERMITTING—PILOT

AN ACT Relating to streamlining the environmental permitting process for salmon recovery projects; adding a new section to chapter 77.55 RCW; adding a new section to chapter 43.21C RCW; creating new sections; and providing expiration dates.

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

NEW SECTION. Sec. 1. The legislature finds that, particularly in times of economic hardship, it is in the interest of the citizens and natural resources of the state to promote and implement habitat restoration projects that have been determined to contribute to the recovery of watersheds throughout the state. The legislature further finds that habitat recovery projects that contribute to the recovery of orca, salmon, steelhead, bull trout, rock fish, and other fish species and habitat they rely on are particularly valuable. It is the legislature's intent that these projects advance to construction as quickly and efficiently as possible, thereby creating jobs and further bolstering the natural resources and natural resource economy of Washington.

NEW SECTION. Sec. 2. A new section is added to chapter 77.55 RCW to read as follows:

(1) The habitat recovery pilot program is created.

(2)(a) In order to be included in this statewide pilot program and qualify for the permit review and approval process created in this section, an environmental restoration project must directly benefit freshwater, estuarine, or marine fish, or the habitat they rely on, and must be included on a list of projects reviewed, approved, or funded by one of the following restoration programs:

(i) The Bonneville power administration restoration program;

(ii) The Brian Abbott fish barrier removal board;

(iii) The estuary and salmon restoration program;

(iv) The floodplains by design program;

(v) The office of Chehalis basin aquatic species restoration program;

(vi) The office of Columbia river habitat recovery projects;

(vii) The Puget Sound acquisition and restoration fund;

- (viii) The Puget Sound national estuary program;
- (ix) The salmon recovery funding board;
- (x) The Washington coast restoration and resiliency initiative;
- (xi) The Yakima tributary access and habitat program;
- (xii) Fish recovery projects sponsored by a federally recognized tribe; and
- (xiii) Fish acclimation facility projects sponsored or operated by a federally recognized tribe.

(b) A project application reviewed under this section must document consistency with local, state, and federal flood risk reduction requirements. A project may not be reviewed under the process created in this section if the local government within whose geographical jurisdiction the project will be located determines that the project does not meet applicable flood risk reduction requirements, or otherwise determines that the project raises concerns regarding public health and safety, and the local government provides timely notice of its determination to the department.

(c)(i) With regard to cultural resources, a project applicant or funding agency must review the project with the department of archaeology and historic preservation and complete any required site surveys before the project applicant files an application under this section. A project applicant must document consistency in the application with applicable cultural resource protection requirements.

(ii) A project applicant must provide a copy of its application to the department of archaeology and historic preservation, and to affected federally recognized tribes, no fewer than 60 days before the application may be filed with the department.

(iii) The department may not review a project under the expedited process created in this section if a cultural resource site is identified at the project site or if an affected federally recognized tribe withholds its consent that the project should be expedited according to the process set forth in this section. Such consent may be withheld upon a determination that the project may adversely impact cultural resources. Notice of such a determination must be provided to the department by the affected federally recognized tribe in a timely manner.

(iv) In the event of an inadvertent discovery of cultural resources or human remains, the project applicant shall immediately notify the department, the department of archaeology and historic preservation, and affected federally recognized tribes. In the event of an inadvertent discovery of cultural resources or human remains, existing requirements applicable to inadvertent discoveries of cultural resources and human remains, including those set forth in chapters 27.53, 27.44, and 68.60 RCW, apply.

(d) For those projects that require a lease or other land use authorization from the department of natural resources, the project applicant must include in its application for a permit under this section a signed joint aquatic resources permit application, attachment E. The project applicant must provide a copy of a completed application to the department of natural resources no fewer than 30 days before the application may be filed with the department. The department of natural resources must make a final decision on applications for projects under this section within 30 days of the issuance of a permit under this section.

(3) Fish recovery and fish habitat restoration projects meeting the criteria of subsection (2) of this section are expected to result in beneficial impacts to the

aquatic environment. Projects approved for inclusion in this pilot program and that are reviewed and approved according to the provisions of this section are not subject to the requirements of RCW 43.21C.030(2) and are not required to obtain local or state permits or approvals other than the permit issued under this section, except permits minimally necessary as a requirement of participation in a federal program.

(4)(a) A permit under this chapter is required for projects that meet the criteria of subsection (2) of this section and must be reviewed and, if appropriate, approved under this section. An applicant shall use the department's online permitting system to apply for approval under this section and shall at the same time provide a copy of the application to the local government within whose geographical jurisdiction the project will be located, to the members of the multiagency permitting team created in this section, and to potentially affected federally recognized tribes.

(b) When the department concludes that a complete application has been submitted under this section and copies of the application have been provided as required in this section, the department shall provide notice to the local government within whose geographical jurisdiction the project will be located, to potentially affected federally recognized tribes, and to the members of the multiagency permitting team of receipt of a complete permit application.

(i) Unless the multiagency permitting team process described in this section is invoked, the department shall evaluate and make a decision on the application not sooner than 25 days, and not later than 45 days, after receipt of a complete permit application.

(ii) Within 25 days of receiving a copy of the complete project application, the local government within whose geographical jurisdiction the project would be located, any member of the multiagency permitting team, or a potentially affected federally recognized tribe may request that the department place the application on hold and immediately convene a meeting with the requesting entity and the multiagency permitting team to review and evaluate the project.

(iii) All parties involved in this review process shall work in good faith to expedite permitting and any party with concerns shall provide the basis for its concerns and potential pathways to address those concerns. Any party objecting to expedited permitting shall provide a written basis for its objections to the department or the multiagency permitting team.

(iv) The multiagency review process may not exceed 45 days from the request for review.

(c) The multiagency permitting team consists of representatives of the local government in whose geographical jurisdiction the project would be located, the department, the department of ecology, the recreation and conservation office, the governor's salmon recovery office, the department of natural resources, and, when the project in question is located in the Puget Sound basin, the Puget Sound partnership. For projects located in the Puget Sound basin, meetings of the multiagency permitting team must be facilitated by the Puget Sound partnership. All other meetings of the multiagency permitting team must be facilitated by the recreation and conservation office.

(d) The department or, where applicable, the multiagency permitting team, shall exclude any project from the review and approval process created by this section if it concludes that the project may adversely impact human health,

public safety, or the environment, or that the project's scope or complexity renders it inappropriate for expedited review.

(e) If the department or the multiagency permitting team determines that the review and approval process created by this section is not appropriate for the proposed project, the department shall notify the applicant, the appropriate local government, and potentially affected federally recognized tribes of its determination. The applicant may reapply for approval of the project under generally applicable review and approval processes. If the multiagency permitting team determines that the review and approval process created by this section is appropriate for the proposed project, the hold on the application must be lifted and the department shall make a decision within the time that remains of the original 45-day decision deadline.

(f) Any person aggrieved by the approval, denial, conditioning, or modification of a permit under this section may appeal the decision as provided in RCW 77.55.021(8).

(g) The department shall, in a timely manner, provide a copy of any application seeking review under this section and shall thereafter coordinate with affected federally recognized tribes as it implements this section.

(5) No local or state government may require permits or charge fees other than the permit issued under this section, except permits minimally necessary as a requirement of participation in a federal program, for fish recovery pilot projects that meet the criteria of subsection (2) of this section and that are reviewed and approved according to the provisions of this section.

(6) No civil liability may be imposed by any court on the state or its officers and employees for any adverse impacts resulting from a fish recovery stimulus pilot project permitted by the department under the criteria of this section except upon proof of gross negligence or willful or wanton misconduct.

(7) This section expires June 30, 2025.

NEW SECTION. Sec. 3. A new section is added to chapter 43.21C RCW to read as follows:

(1) A project that receives a permit pursuant to section 2 of this act is not subject to the requirements of RCW 43.21C.030(2).

(2) This section expires June 30, 2025.

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, 2021, in the omnibus appropriations act, this act is null and void.

Passed by the House March 2, 2021.

Passed by the Senate April 7, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 76

[Substitute House Bill 1424]

RETAIL PET STORES—SALE OF DOGS AND CATS

AN ACT Relating to consumer protection with respect to the sale of dogs and cats; and adding a new section to chapter 16.52 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 16.52 RCW to read as follows:

(1) Except as provided in this section, a retail pet store may not sell or offer for sale any dog or cat.

(2) A retail pet store that sold or offered for sale any dog prior to the effective date of this section may sell or offer for sale a dog.

Passed by the House March 7, 2021.

Passed by the Senate April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 77

[Engrossed Substitute House Bill 1426]

TEACHERS AND SCHOOL ADMINISTRATORS—CONTINUING EDUCATION—EQUITY-BASED PRACTICES

AN ACT Relating to specifying minimum continuing education requirements for administrator and teacher certificate renewals that focus on equity-based school and classroom practices; and adding a new section to chapter 28A.410 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 28A.410 RCW to read as follows:

(1) The Washington professional educator standards board must adopt rules for renewal of administrator certificates and teacher certificates that meet the continuing education requirements of this section.

(2) To renew an administrator certificate on or after July 1, 2023, continuing education must meet the following requirements: 10 percent must focus on equity-based school practices, 10 percent must focus on the national professional standards for education leaders, and five percent must focus on government-to-government relationships with federally recognized tribes.

(3) To renew a teacher certificate on or after July 1, 2023, 15 percent of continuing education must focus on equity-based school practices. This subsection (3) does not apply to a person renewing both a teacher certificate and an administrator certificate.

(4)(a) Except as provided under (b) of this subsection (4), continuing education must be provided by one or more of the following entities, if they are an approved clock hour provider:

(i) The office of the superintendent of public instruction;

(ii) A school district;

(iii) An educational service district;

(iv) A Washington professional educator standards board-approved administrator or teacher preparation program;

(v) The association of Washington school principals; or

(vi) The Washington education association.

(b) Continuing education related to government-to-government relationships with federally recognized tribes must be provided by one or more subject matter experts approved by the governor's office on Indian affairs in

collaboration with the tribal leaders congress on education and the office of Native education in the office of the superintendent of public instruction.

(5) Continuing education focused on equity-based school practices must be aligned with the standards for cultural competency developed under RCW 28A.410.260.

Passed by the House March 1, 2021.

Passed by the Senate April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 78

[Substitute House Bill 1445]

PRACTICE OF PHARMACY—COMPOUNDING DEFINITION

AN ACT Relating to the definition of compounding for purposes of the practice of pharmacy; and reenacting and amending RCW 18.64.011.

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

Sec. 1. RCW 18.64.011 and 2016 c 148 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) "Administer" means the direct application of a drug or device, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject.

(2) "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.

(3) "Chart order" means a lawful order for a drug or device entered on the chart or medical record of an inpatient or resident of an institutional facility by a practitioner or his or her designated agent.

(4) "Closed door long-term care pharmacy" means a pharmacy that provides pharmaceutical care to a defined and exclusive group of patients who have access to the services of the pharmacy because they are treated by or have an affiliation with a long-term care facility or hospice program, and that is not a retailer of goods to the general public.

(5) "Commission" means the pharmacy quality assurance commission.

(6) "Compounding" means the act of combining two or more ingredients in the preparation of a prescription. Reconstitution and mixing of (a) sterile products according to federal food and drug administration-approved labeling does not constitute compounding if prepared pursuant to a prescription and administered immediately or in accordance with package labeling, and (b) nonsterile products according to federal food and drug administration-approved labeling does not constitute compounding if prepared pursuant to a prescription.

(7) "Controlled substance" means a drug or substance, or an immediate precursor of such drug or substance, so designated under or pursuant to the provisions of chapter 69.50 RCW.

(8) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a drug or device, whether or not there is an agency relationship.

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

(10) "Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended (a) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals, or (b) to affect the structure or any function of the body of human beings or other animals.

(11) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(12) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(13) "Drug" and "devices" do not include surgical or dental instruments or laboratory materials, gas and oxygen, therapy equipment, X-ray apparatus or therapeutic equipment, their component parts or accessories, or equipment, instruments, apparatus, or contrivances used to render such articles effective in medical, surgical, or dental treatment, or for use or consumption in or for mechanical, industrial, manufacturing, or scientific applications or purposes. "Drug" also does not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended, nor medicated feed intended for and used exclusively as a feed for animals other than human beings.

(14) "Drugs" means:

(a) Articles recognized in the official United States pharmacopoeia or the official homeopathic pharmacopoeia of the United States;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of human beings or other animals; or

(d) Substances intended for use as a component of any substances specified in (a), (b), or (c) of this subsection, but not including devices or their component parts or accessories.

(15) "Health care entity" means an organization that provides health care services in a setting that is not otherwise licensed by the state to acquire or possess legend drugs. Health care entity includes a freestanding outpatient surgery center, a residential treatment facility, and a freestanding cardiac care center. "Health care entity" does not include an individual practitioner's office or a multipractitioner clinic, regardless of ownership, unless the owner elects licensure as a health care entity. "Health care entity" also does not include an individual practitioner's office or multipractitioner clinic identified by a hospital on a pharmacy application or renewal pursuant to RCW 18.64.043.

(16) "Hospice program" means a hospice program certified or paid by medicare under Title XVIII of the federal social security act, or a hospice program licensed under chapter 70.127 RCW.

(17) "Institutional facility" means any organization whose primary purpose is to provide a physical environment for patients to obtain health care services

including, but not limited to, services in a hospital, long-term care facility, hospice program, mental health facility, drug abuse treatment center, residential habilitation center, or a local, state, or federal correction facility.

(18) "Labeling" means the process of preparing and affixing a label to any drug or device container. The label must include all information required by current federal and state law and pharmacy rules.

(19) "Legend drugs" means any drugs which are required by any applicable federal or state law or regulation to be dispensed on prescription only or are restricted to use by practitioners only.

(20) "Long-term care facility" means a nursing home licensed under chapter 18.51 RCW, an assisted living facility licensed under chapter 18.20 RCW, or an adult family home licensed under chapter 70.128 RCW.

(21) "Manufacture" means the production, preparation, propagation, compounding, or processing of a drug or other substance or device or the packaging or repackaging of such substance or device, or the labeling or relabeling of the commercial container of such substance or device, but does not include the activities of a practitioner who, as an incident to his or her administration or dispensing such substance or device in the course of his or her professional practice, personally prepares, compounds, packages, or labels such substance or device. "Manufacture" includes the distribution of a licensed pharmacy compounded drug product to other state licensed persons or commercial entities for subsequent resale or distribution, unless a specific product item has approval of the commission. The term does not include:

(a) The activities of a licensed pharmacy that compounds a product on or in anticipation of an order of a licensed practitioner for use in the course of their professional practice to administer to patients, either personally or under their direct supervision;

(b) The practice of a licensed pharmacy when repackaging commercially available medication in small, reasonable quantities for a practitioner legally authorized to prescribe the medication for office use only;

(c) The distribution of a drug product that has been compounded by a licensed pharmacy to other appropriately licensed entities under common ownership or control of the facility in which the compounding takes place; or

(d) The delivery of finished and appropriately labeled compounded products dispensed pursuant to a valid prescription to alternate delivery locations, other than the patient's residence, when requested by the patient, or the prescriber to administer to the patient, or to another licensed pharmacy to dispense to the patient.

(22) "Manufacturer" means a person, corporation, or other entity engaged in the manufacture of drugs or devices.

(23) "Nonlegend" or "nonprescription" drugs means any drugs which may be lawfully sold without a prescription.

(24) "Person" means an individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(25) "Pharmacist" means a person duly licensed by the commission to engage in the practice of pharmacy.

(26) "Pharmacy" means every place properly licensed by the commission where the practice of pharmacy is conducted.

(27) "Poison" does not include any article or mixture covered by the Washington pesticide control act (chapter 15.58 RCW), as enacted or hereafter amended.

(28) "Practice of pharmacy" includes the practice of and responsibility for: Interpreting prescription orders; the compounding, dispensing, labeling, administering, and distributing of drugs and devices; the monitoring of drug therapy and use; the initiating or modifying of drug therapy in accordance with written guidelines or protocols previously established and approved for his or her practice by a practitioner authorized to prescribe drugs; the participating in drug utilization reviews and drug product selection; the proper and safe storing and distributing of drugs and devices and maintenance of proper records thereof; the providing of information on legend drugs which may include, but is not limited to, the advising of therapeutic values, hazards, and the uses of drugs and devices.

(29) "Practitioner" means a physician, dentist, veterinarian, nurse, or other person duly authorized by law or rule in the state of Washington to prescribe drugs.

(30) "Prescription" means an order for drugs or devices issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe drugs or devices in the course of his or her professional practice for a legitimate medical purpose.

(31) "Secretary" means the secretary of health or the secretary's designee.

(32) "Shared pharmacy services" means a system that allows a participating pharmacist or pharmacy pursuant to a request from another participating pharmacist or pharmacy to process or fill a prescription or drug order, which may include but is not necessarily limited to preparing, packaging, labeling, data entry, compounding for specific patients, dispensing, performing drug utilization reviews, conducting claims adjudication, obtaining refill authorizations, reviewing therapeutic interventions, or reviewing chart orders.

(33) "Wholesaler" means a corporation, individual, or other entity which buys drugs or devices for resale and distribution to corporations, individuals, or entities other than consumers.

Passed by the House March 6, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 79

[Substitute House Bill 1446]

ELECTRIC UTILITIES—ENERGY CONSERVATION TARGETS—EVENTS BEYOND CONTROL

AN ACT Relating to prohibiting a utility from being assessed a penalty for not meeting its biennial acquisition target for cost-effective conservation in special circumstances outside the utility's control; and amending RCW 19.285.040 and 19.285.060.

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

Sec. 1. RCW 19.285.040 and 2019 c 288 s 29 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) A qualifying utility is considered in compliance with its biennial acquisition target for cost-effective conservation in (b) 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 conservation target. Events that a qualifying utility may demonstrate were beyond its reasonable control, that could not have reasonably been anticipated or ameliorated, and that prevented it from meeting the conservation target include: (i) Natural disasters resulting in the issuance of extended emergency declarations; (ii) the cancellation of significant conservation projects; and (iii) actions of a governmental authority that adversely affects the acquisition of cost-effective conservation by the qualifying utility.

(f) 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))~~ (g) 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) 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 RCW 19.405.020, 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.

Sec. 2. RCW 19.285.060 and 2015 c 225 s 22 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a qualifying utility that fails to comply with the energy conservation or renewable energy targets established in RCW 19.285.040 shall pay an administrative penalty to the state of Washington in the amount of fifty dollars for each megawatt-hour of shortfall. Beginning in 2007, this penalty shall be adjusted annually 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.

(2) A qualifying utility that does not meet an annual renewable energy target established in RCW 19.285.040(2) or biennial acquisition target for cost-effective conservation in RCW 19.285.040(1) is exempt from the administrative penalty in subsection (1) of this section for that year if the commission for

investor-owned utilities or the auditor for all other qualifying utilities determines that the utility complied with RCW 19.285.040 (1)(e) or (2) (d) or (i) or 19.285.050(1).

(3) A qualifying utility must notify its retail electric customers in published form within three months of incurring a penalty regarding the size of the penalty and the reason it was incurred.

(4) The commission shall determine if an investor-owned utility may recover the cost of this administrative penalty in electric rates, and may consider providing positive incentives for an investor-owned utility to exceed the targets established in RCW 19.285.040.

(5) Administrative penalties collected under this chapter shall be deposited into the energy independence act special account which is hereby created. All receipts from administrative penalties collected under this chapter must be deposited into the account. Expenditures from the account may be used only for the purchase of renewable energy credits or for energy conservation projects at public facilities, local government facilities, community colleges, or state universities. The state shall own and retire any renewable energy credits purchased using moneys from the account. Only the director of enterprise services 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.

(6) For a qualifying utility that is an investor-owned utility, the commission shall determine compliance with the provisions of this chapter and assess penalties for noncompliance as provided in subsection (1) of this section.

(7) For qualifying utilities that are not investor-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.

Passed by the House March 3, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 80

[Substitute House Bill 1455]

USE OF SOCIAL SECURITY NUMBERS—CERTAIN STATE DEPARTMENTS

AN ACT Relating to the use of social security numbers by the department of labor and industries and the employment security department; adding a new section to chapter 43.22 RCW; and adding a new section to chapter 50.12 RCW.

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

NEW SECTION, Sec. 1. A new section is added to chapter 43.22 RCW to read as follows:

(1) For the purposes of preventing fraud and protecting personal privacy, the department shall examine its current practices in which it discloses the full social security numbers of persons in its correspondence with nongovernmental third parties.

(2) If the disclosure of full social security numbers in its correspondence with nongovernmental third parties is not required for compliance with any state or federal law, the department shall:

(a) Institute procedures to replace the use of full social security numbers with other forms of personal identifiers in its correspondence with nongovernmental third parties; and

(b) By July 1, 2023, cease disclosing the full social security numbers of persons in its correspondence with nongovernmental third parties.

(3) The definitions in this subsection apply throughout this section:

(a) "Correspondence" means written communications, emails, or other similar communications. "Correspondence" does not include financial transactions or communications sent via secured or encrypted methods.

(b) "Nongovernmental third party" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, or other legal commercial entity. The term does not include a government or governmental subdivision, agency, or instrumentality.

NEW SECTION. Sec. 2. A new section is added to chapter 50.12 RCW to read as follows:

(1) For the purposes of preventing fraud and protecting personal privacy, the employment security department shall examine its current practices in which it discloses the full social security numbers of persons in its correspondence with nongovernmental third parties.

(2) If the disclosure of full social security numbers in its correspondence with nongovernmental third parties is not required by any state or federal law, the employment security department shall:

(a) Institute procedures to replace the use of full social security numbers with other forms of personal identifiers in its correspondence with nongovernmental third parties; and

(b) By July 1, 2023, cease disclosing the full social security numbers of persons in its correspondence with nongovernmental third parties.

(3) The definitions in this subsection apply throughout this section:

(a) "Correspondence" means letters, emails, or other similar communications. "Correspondence" does not include financial transactions or communications sent via secured or encrypted methods.

(b) "Nongovernmental third party" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, or other legal commercial entity. The term does not include a government or governmental subdivision, agency, instrumentality, or private persons or organizations covered by RCW 50.13.080.

Passed by the House February 24, 2021.

Passed by the Senate April 7, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 81

[House Bill 1469]

ENHANCED RAFFLES—VARIOUS PROVISIONS

AN ACT Relating to enhanced raffle procedures; and amending RCW 9.46.0323.

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

Sec. 1. RCW 9.46.0323 and 2016 c 116 s 1 are each amended to read as follows:

(1) A bona fide charitable or nonprofit organization, as defined in RCW 9.46.0209, whose primary purpose is serving individuals with intellectual disabilities may conduct enhanced raffles if licensed by the commission.

(2) The commission has the authority to approve two enhanced raffles per calendar year for western Washington and two enhanced raffles per calendar year for eastern Washington. Whether the enhanced raffle occurs in western Washington or eastern Washington will be determined by the location where the grand prize winning ticket is to be drawn as stated on the organization's application to the commission. An enhanced raffle is considered approved when voted on by the commission.

(3) The commission has the authority to approve enhanced raffles under the following conditions:

(a) The value of the grand prize must not exceed (~~five million dollars~~) \$10,000,000.

(b) Sales may be made in person, by mail, by fax, or by telephone only. Raffle ticket order forms may be printed from the bona fide charitable or nonprofit organization's website. Obtaining the form in this manner does not constitute a sale.

(c) Tickets purchased as part of a multiple ticket package may be purchased at a discount.

(d) Multiple smaller prizes are authorized during the course of an enhanced raffle for a grand prize including, but not limited to, early bird, refer a friend, and multiple ticket drawings.

(e) A purchase contract is not necessary for smaller noncash prizes, but the bona fide charitable or nonprofit organization must be able to demonstrate that such a prize is available and sufficient funds are held in reserve in the event that the winner chooses a noncash prize.

(f) All enhanced raffles and associated smaller raffles must be independently audited, as defined by the commission during rule making. The audit results must be reported to the commission.

(g) Call centers, when licensed by the commission, are authorized. The bona fide charitable or nonprofit organization may contract with a call center vendor to receive enhanced raffle ticket sales. The vendor may not solicit sales. The vendor may be located outside the state, but the bona fide charitable or nonprofit organization must have a contractual relationship with the vendor stating that the vendor must comply with all applicable Washington state laws and rules.

(h) The bona fide charitable or nonprofit organization must be the primary recipient of the funds raised.

(i) Sales data may be transmitted electronically from the vendor to the bona fide charitable or nonprofit organization. Credit cards, issued by a state regulated

or federally regulated financial institution, may be used for payment to participate in enhanced raffles.

(j) Receipts including ticket confirmation numbers may be sent to ticket purchasers either by mail or by email.

(k) In the event the bona fide charitable or nonprofit organization determines ticket sales are insufficient to qualify for a complete enhanced raffle to move forward, the enhanced raffle winner must receive fifty percent of the net proceeds in excess of expenses as the grand prize. The enhanced raffle winner will receive a choice between an annuity value equal to fifty percent of the net proceeds in excess of expenses paid by annuity over twenty years, or a one-time cash payment of seventy percent of the annuity value.

(l) A bona fide charitable or nonprofit organization is authorized to hire a consultant licensed by the commission to run an enhanced raffle; in addition, the bona fide charitable or nonprofit organization must have a dedicated employee who is responsible for oversight of enhanced raffle operations. The bona fide charitable or nonprofit organization is ultimately responsible for ensuring that an enhanced raffle is conducted in accordance with all applicable state laws and rules.

(4) The commission has the authority to set fees for bona fide charitable or nonprofit organizations, call center vendors, and consultants conducting enhanced raffles authorized under this section.

(5) The commission has the authority to adopt rules governing the licensing and operation of enhanced raffles.

(6) Except as specifically authorized in this section, enhanced raffles must be held in accordance with all other requirements of this chapter, other applicable laws, and rules of the commission.

(7) For the purposes of this section:

(a) "Enhanced raffle" means a game in which tickets bearing an individual number are sold for not more than two hundred fifty dollars each and in which a grand prize and smaller prizes are awarded on the basis of drawings from the tickets by the person or persons conducting the game. An enhanced raffle may include additional related entries and drawings, such as early bird, refer a friend, and multiple ticket drawings when the bona fide charitable or nonprofit organization establishes the eligibility standards for such entries and drawings before any enhanced raffle tickets are sold. No drawing may occur by using a random number generator or similar means.

(b) "Early bird drawing" means a separate drawing for a separate prize held prior to the grand prize drawing. All tickets entered into the early bird drawing, including all early bird winning tickets, are entered into subsequent early bird drawings, and also entered into the drawing for the grand prize.

(c) "Refer a friend drawing" means a completely separate drawing, using tickets distinct from those for the enhanced raffle, for a separate prize held at the conclusion of the enhanced raffle for all enhanced raffle ticket purchasers, known as the referring friend, who refer other persons to the enhanced raffle when the other person ultimately purchases an enhanced raffle ticket. The referring friend will receive one ticket for each friend referred specifically for the refer a friend drawing. In addition, each friend referred could also become a referring friend and receive his or her own additional ticket for the refer a friend drawing.

(d) "Multiple ticket drawing" means a completely separate drawing, using tickets distinct from those for the enhanced raffle, for a separate prize held at the conclusion of the enhanced raffle for all enhanced raffle ticket purchasers who purchase a specified number of enhanced raffle tickets. For example, a multiple ticket drawing could include persons who purchase three or more enhanced raffle tickets in the same order, using the same payment information, with tickets in the same person's name. For each eligible enhanced raffle ticket purchased, the purchaser also receives a ticket for the multiple ticket drawing prize.

(e) "Western Washington" includes those counties west of the Cascade mountains, including Clallam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, and Whatcom.

(f) "Eastern Washington" includes those counties east of the Cascade mountains that are not listed in (e) of this subsection.

(8) ~~((By December 2016, the commission must report back to the appropriate committees of the legislature on enhanced raffles))~~ The commission's reporting obligations under RCW 9.46.090 must address enhanced raffles. The report must include results of the raffles, revenue generated by the raffles, and identify any state or federal regulatory actions taken in relation to enhanced raffles in Washington. The report must also make recommendations, if any, for policy changes to the enhanced raffle authority.

~~((9) This section expires June 30, 2022.))~~

Passed by the House February 23, 2021.

Passed by the Senate April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 82

[Substitute House Bill 1493]

UNEMPLOYMENT INSURANCE—JOB SEARCH MONITORING

AN ACT Relating to job search monitoring; amending RCW 50.20.240; creating new sections; and declaring an emergency.

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

Sec. 1. RCW 50.20.240 and 2019 c 50 s 3 are each amended to read as follows:

(1)(a) To ensure that following the initial application for benefits, an individual is actively engaged in searching for work, the employment security department shall implement ~~((a))~~ job search monitoring ~~((program))~~. The employment security department shall contract with employment security agencies in other states to ensure that individuals residing in those states and receiving benefits under this title are actively engaged in searching for work in accordance with the requirements of this section. The employment security department ~~((may use interactive voice technology and other electronic means to))~~ must ensure that individuals are subject to comparable job search monitoring, regardless of whether they reside in Washington or elsewhere.

(b) Except for those individuals with employer attachment or union referral, individuals complying with an electrical apprenticeship training program that

includes a recognized referral system under apprenticeship program standards approved by the Washington state apprenticeship and training council, individuals who qualify for unemployment compensation under RCW 50.20.050 (1)(b)(iv) or (2)(b)(iv), as applicable, and individuals in commissioner-approved training, an individual who has received five or more weeks of benefits under this title, regardless of whether the individual resides in Washington or elsewhere, must provide evidence of seeking work, as directed by the commissioner or the commissioner's agents, for each week beyond five in which a claim is filed. ~~((The))~~

(i) Until December 31, 2023, the evidence must demonstrate contacts with at least three employers per week or documented in-person job search activities at the local reemployment center at least three times per week, or as otherwise directed by the employment security department to meet the intent of rigorous reemployment efforts.

(ii) On or after January 1, 2024, the evidence must demonstrate contacts with at least three employers per week or documented job search activities with the local reemployment center at least three times per week.

(c) In developing the requirements for ~~((the))~~ job search monitoring ~~((program))~~, the commissioner or the commissioner's agents shall utilize an existing advisory committee having equal representation of employers and workers.

(2) An individual who fails to comply fully with the requirements for actively seeking work under RCW 50.20.010 shall lose all benefits for all weeks during which the individual was not in compliance, and the individual shall be liable for repayment of all such benefits under RCW 50.20.190.

NEW SECTION. Sec. 2. By December 1, 2022, and in compliance with RCW 43.01.036, the employment security department must submit a report to the legislature that details the impacts of any flexibilities utilized in claimant job search methods, monitoring, and outcomes.

NEW SECTION. Sec. 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 4. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

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 House February 24, 2021.

Passed by the Senate April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 83

[Engrossed Substitute House Bill 1521]

STREAMLINED SALES AND USE TAX AGREEMENT—LOCAL SALES TAX MITIGATION PAYMENTS

AN ACT Relating to supporting warehousing and manufacturing job centers; adding new sections to chapter 82.14 RCW; creating a new section; providing an effective date; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature recognizes that changes in sales tax sourcing laws created a significant negative fiscal impact on communities with a concentration of warehousing, manufacturing, and shipping. These communities are vital job centers to our state economy and are some of the most diverse communities in our state.

Furthermore, the infrastructure demands to support these industries are significant. The legislature hereby creates the warehousing and manufacturing job center assistance program to provide these communities with revenue to mitigate for the negative fiscal impact of changes in sales tax sourcing laws, and fund important infrastructure to maintain these key job centers.

NEW SECTION. Sec. 2. A new section is added to chapter 82.14 RCW to read as follows:

(1) In order to mitigate local sales tax revenue net losses as a result of the sourcing provisions of the streamlined sales and use tax agreement under this title, the state treasurer, on July 1, 2021, and each July 1st thereafter through July 1, 2026, must transfer into the manufacturing and warehousing job centers account from the general fund the sum required to provide mitigation payments to qualifying jurisdictions as described under this section.

(2) The department shall provide each qualified local taxing district a quarterly mitigation payment from the warehousing and manufacturing job center assistance program equal to the streamlined sales tax mitigation payment that was provided to that qualified local taxing district on June 30, 2020. Starting on July 1, 2022, the amount of the quarterly mitigation payment shall be reduced by 20 percent of the previous year's payment for that same quarter.

(3) "Qualified local taxing district" means a city that received a quarterly streamlined sales tax mitigation payment from the state on June 30, 2020, of at least \$60,000.

(4) This section expires July 1, 2026.

NEW SECTION. Sec. 3. A new section is added to chapter 82.14 RCW to read as follows:

The manufacturing and warehousing job centers account is created in the state treasury. All receipts from section 2 of this act must be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purpose of mitigating the negative fiscal impacts to local taxing jurisdictions as a result of the streamlined sales and use tax agreement under this title.

NEW SECTION. **Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2021.

Passed by the House March 3, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 84

[Senate Bill 5005]

BUSINESS CORPORATIONS—ELECTRONIC NOTICES

AN ACT Relating to business corporations; amending RCW 23B.01.400, 23B.01.410, 23B.01.420, and 23B.08.210; and reenacting and amending RCW 23B.07.040.

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

Sec. 1. RCW 23B.01.400 and 2020 c 57 s 39 are each amended to read as follows:

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

(1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Conspicuous" means so prepared that a reasonable person against whom the writing is to operate should have noticed it. For example, text in italics, boldface, contrasting color, capitals, or underlined is conspicuous.

(4) "Controlling interest" means ownership of an entity's outstanding shares or interests in such number as to entitle the holder at the time to elect a majority of the entity's directors or other governors without regard to voting power which may thereafter exist upon a default, failure, or other contingency.

(5) "Corporate action" means any resolution, act, policy, contract, transaction, plan, adoption or amendment of articles of incorporation or bylaws, or other matter approved by or submitted for approval to a corporation's incorporators, board of directors or a committee thereof, or shareholders.

(6) "Corporation" or "domestic corporation" means a corporation for profit, including a social purpose corporation, which is not a foreign corporation, incorporated under or subject to the provisions of this title.

(7) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and, if authorized in accordance with RCW 23B.01.410, by electronic transmission.

(8) "Distribution" means a direct or indirect transfer of money or other property, except its own shares, or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect to any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a distribution in partial or complete liquidation, or upon voluntary or involuntary dissolution; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(9) "Document" means:

(a) Any tangible medium on which information is inscribed, and includes handwritten, typed, printed, or similar instruments or copies of such instruments; and

(b) An electronic record.

(10) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(11) "Electronic mail" means an electronic transmission directed to a unique electronic mail address, which electronic mail will be deemed to include any files attached thereto and any information hyperlinked to a website if the electronic mail includes the contact information of an officer or agent of the corporation who is available to assist with accessing such files and information.

(12) "Electronic mail address" means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox, commonly referred to as the "local part" of the address, and a reference to an internet domain, commonly referred to as the "domain part" of the address, whether or not displayed, to which electronic mail can be sent or delivered.

(13) "Electronic record" means information that is stored in an electronic or other nontangible medium and ~~((is))~~: (a) Is retrievable in paper form by the recipient through an automated process used in conventional commercial practice~~(; unless)~~; or (b) if not retrievable in paper form by the recipient through an automated process used in conventional commercial practice, is otherwise authorized in accordance with RCW 23B.01.410(10).

(14) "Electronic transmission" or "electronically transmitted" means internet transmission, telephonic transmission, electronic mail transmission, transmission of a telegram, cablegram, or datagram, the use of, or participation in, one or more electronic networks or databases including one or more distributed electronic networks or databases, or any other form or process of communication, not directly involving the physical transfer of paper or another tangible medium, which:

(a) Is suitable for the retention, retrieval, and reproduction of information by the recipient; and

(b) Is retrievable in paper form by the recipient through an automated process used in conventional commercial practice, ~~((unless))~~ or, if not retrievable in paper form by the recipient through an automated process used in conventional commercial practice, is otherwise authorized in accordance with RCW 23B.01.410(10).

(15) "Employee" includes an officer but not a director. A director may accept duties that make the director also an employee.

(16) "Entity" includes a corporation and foreign corporation, not-for-profit corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, two or more persons having a joint or common economic interest, the state, United States, and a foreign governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(17) "Execute," "executes," or "executed" means, with present intent to authenticate or adopt a document:

(a) To sign or adopt a tangible symbol to the document, and includes any manual, facsimile, or conformed signature;

(b) To attach or logically associate with an electronic transmission an electronic sound, symbol, or process, and includes an electronic signature; or

(c) With respect to a document to be filed with the secretary of state, in compliance with the standards for filing with the office of the secretary of state as prescribed by the secretary of state.

(18) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

(19) "Foreign limited partnership" means a partnership formed under laws other than of this state and having as partners one or more general partners and one or more limited partners.

(20) "General social purpose" means the general social purpose for which a social purpose corporation is organized as set forth in the articles of incorporation of the corporation in accordance with RCW 23B.25.040(1)(c).

(21) "Governmental subdivision" includes authority, county, district, and municipality.

(22) "Governor" has the meaning given that term in RCW 23.95.105.

(23) "Includes" denotes a partial definition.

(24) "Individual" includes the estate of an incompetent or deceased individual.

(25) "Limited partnership" or "domestic limited partnership" means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(26) "Means" denotes an exhaustive definition.

(27) "Notice" has the meaning provided in RCW 23B.01.410.

(28) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(29) "Principal office" means the office, in or out of this state, so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located.

(30) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

(31) "Public company" means a corporation that has a class of shares registered with the federal securities and exchange commission pursuant to section 12 or 15 of the securities exchange act of 1934, or section 8 of the investment company act of 1940, or any successor statute.

(32) "Qualified director" means (a) with respect to a director's conflicting interest transaction as defined in RCW 23B.08.700, any director who does not have either (i) a conflicting interest respecting the transaction, or (ii) a familial, financial, professional, or employment relationship with a second director who does have a conflicting interest respecting the transaction, which relationship would, in the circumstances, reasonably be expected to exert an influence on the first director's judgment when voting on the transaction; (b) with respect to RCW 23B.08.735, a qualified director under (a) of this subsection if the business opportunity were a director's conflicting interest transaction; and (c) with respect to RCW 23B.02.020(~~((5)(k))~~) (2)(g), a director who is not a director (i) to whom the limitation or elimination of the duty of an officer to offer potential business opportunities to the corporation would apply, or (ii) who has a familial, financial,

professional, or employment relationship with another officer to whom the limitation or elimination would apply, which relationship would, in the circumstances, reasonably be expected to exert an influence on the director's judgment when voting on the limitation or elimination.

(33) "Record date" means the date established under chapter 23B.07 RCW on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this title. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

(34) "Registered office" means the address of the corporation's registered agent.

(35) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under RCW 23B.08.400(3) for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(36) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(37) "Shares" means the units into which the proprietary interests in a corporation are divided.

(38) "Social purpose" includes any general social purpose and any specific social purpose.

(39) "Social purpose corporation" means a corporation that has elected to be governed as a social purpose corporation under chapter 23B.25 RCW.

(40) "Specific social purpose" means the specific social purpose or purposes for which a social purpose corporation is organized as set forth in the articles of incorporation of the corporation in accordance with RCW 23B.25.040(2)(a).

(41) "State," when referring to a part of the United States, includes a state and commonwealth, and their agencies and governmental subdivisions, and a territory and insular possession, and their agencies and governmental subdivisions, of the United States.

(42) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(43) "Subsidiary" means an entity in which the corporation has, directly or indirectly, a controlling interest.

(44) "United States" includes a district, authority, bureau, commission, department, and any other agency of the United States.

(45) "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this title are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this title to vote generally on the matter are for that purpose a single voting group.

(46) "Writing" or "written" means any information in the form of a document.

Sec. 2. RCW 23B.01.410 and 2020 c 57 s 40 are each amended to read as follows:

(1) A notice under this title must be in writing, except that oral notice of any meeting of the board of directors may be given if expressly authorized by the articles of incorporation or bylaws. A notice includes material that this title or

the corporation's articles of incorporation or bylaws requires to accompany the notice. Unless otherwise agreed between the sender and the recipient, words in a notice or other communication under this title must be in English.

(2) A notice or other communication may be given by any method of delivery, except that electronic transmissions must be in accordance with this section. If the methods of delivery are impracticable, a notice or other communication may be given by means of a broad nonexclusionary distribution to the public, which may include a newspaper of general circulation in the area where published; radio, television, or other form of public broadcast communication; or other methods of distribution that the corporation has previously identified to its shareholders.

(3) A notice or other communication to a domestic or foreign corporation registered to do business in this state may be delivered to the corporation's registered agent or to the secretary at its principal office shown in its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its foreign registration statement.

~~(4) ((A notice or other communications may be delivered by electronic transmission if consented to by the recipient or if authorized by subsection (10) of this section; except that if the articles of incorporation or bylaws authorize or require delivery of notices of meetings of directors by electronic transmission; then no consent to delivery of such notices by electronic transmission is required.~~

~~(5) Any consent under subsection (4) of this section may be revoked by the person who consented by written notice to the person to whom the consent was delivered. Any such consent is deemed revoked if:~~

~~(a) The corporation is unable to deliver two consecutive electronic transmissions given by the corporation in accordance with such consent; and~~

~~(b) Sued)) Except to the extent otherwise provided in subsection (5) of this section, a notice or other communication may be given by electronic mail or other electronic transmission, subject to subsection (10) of this section if applicable. If a corporation previously gave notices under this title to a shareholder only by mail or other methods of delivery not involving electronic transmission, the corporation must notify the shareholder that it intends to give notices under this title to the shareholder by electronic transmission before the corporation first commences giving notice under this title to the shareholder by electronic transmission. The inadvertent failure to give this notice will not invalidate any meeting or other corporate action.~~

~~(5) A notice may not be given by electronic mail or other electronic transmission:~~

~~(a) To a shareholder after the shareholder notifies the corporation in writing of an objection to receiving notice by electronic mail or other electronic transmission; or~~

~~(b) To a shareholder or director after the corporation is unable to deliver two consecutive notices by electronic mail or other electronic transmission to the electronic mail address, network, or processing system for the shareholder or director, and the inability becomes known to the secretary or to the transfer agent, or other person responsible for the giving of notice or other communications. The inadvertent failure to ((~~treat such~~)) discover this inability ((~~as a revocation~~)) will not invalidate any meeting or other corporate action.~~

(6) Unless otherwise agreed between the sender and the recipient, an electronic transmission is received when:

(a) If by electronic mail, it is directed to the recipient's electronic mail address, including, in the case of a shareholder, to the shareholder's electronic mail address as it appears in the corporation's records;

(b) If by posting on an electronic network, upon the later of (~~such posting and the~~):

(i) The posting; and

(ii) The delivery of separate notice to the recipient of such specific posting together with comprehensible instructions regarding how to obtain access to the posting on the electronic network; and

(c) If by any other electronic transmission, it enters an information processing system that the recipient has designated or uses for the purposes of receiving electronic transmissions or information of the type sent, and from which the recipient is able to retrieve the electronic transmission and it is in a form capable of being processed by that system.

(7) Receipt of an electronic acknowledgment from an information processing system described in subsection (6)(c) of this section establishes that an electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

(8) An electronic transmission is received under this section even if no person is aware of its receipt.

(9) A notice or other communication, if in a comprehensible form or manner, is effective at the earliest of the following:

(a) If in a physical form, the earliest of when it is actually received, or when it is left at:

(i) A shareholder's address as it appears in the corporation's records;

(ii) A director's residence or usual place of business; or

(iii) The corporation's principal office;

(b) If mailed to a shareholder, upon deposit in the United States mail with first-class postage prepaid and correctly addressed to the shareholder's mailing address as it appears in the corporation's records;

(c) If mailed to a recipient other than a shareholder, the earliest of when it is actually received, or:

(i) If sent by registered or certified mail, return receipt requested, the date shown on the return receipt signed by or on behalf of the addressee; or

(ii) Five days after it is deposited in the United States mail with first-class postage prepaid and correctly addressed to the recipient;

(d) If sent by air courier, when dispatched and correctly addressed to a shareholder's mailing address as it appears in the corporation's records;

(e) If ~~(an)~~ sent by electronic mail or any other electronic transmission, when it is received as provided in subsection (6) of this section; and

(f) If oral, when communicated.

(10) A notice or other communication may be in the form of an electronic transmission that cannot be directly reproduced in paper form by the recipient through an automated process used in conventional commercial practice only if:

(a) The electronic transmission is otherwise retrievable in perceivable form; and

(b) The sender and the recipient have consented in writing to the use of such form of electronic transmission.

(11) Notwithstanding anything to the contrary in this section or any other section of this title, ~~((if))~~ when this title requires that a notice be given to shareholders ~~((be accompanied by certain material, a public company may satisfy such a requirement, whether or not a shareholder has consented to receive electronically transmitted notice, by (a) posting the material)),~~ a public company may satisfy this requirement, by: (a) Posting the notice, and any material that this title or the corporation's articles of incorporation or bylaws requires to accompany the notice, on an electronic network (either separate from, or in combination with or as part of, any other materials the public company has posted on the electronic network in compliance with applicable federal law) at or prior to the time that the notice under (b) of this subsection is delivered to the public company's shareholders entitled to receive the notice, and (b) ~~((delivering))~~ mailing to the public company's shareholders entitled to receive the notice a separate ~~((record))~~ notice of the posting ~~((which record may accompany, or be contained in, the notice))),~~ together with comprehensible instructions regarding how to obtain access to the posting on the electronic network. In such a case, the notice and any accompanying material posted on the electronic network is deemed to have been delivered to the public company's shareholders at the time the ~~((notice to the shareholders is effective under))~~ separate notice required under (b) of this subsection is effective as provided in subsection (9) of this section. A public company that elects pursuant to this ~~((section))~~ subsection to post on an electronic network any notice or any material ~~((required by this title))~~ that this title or the corporation's articles of incorporation or bylaws requires to accompany a notice to shareholders is required, at its expense, to provide a copy of the notice and the material in a tangible medium (alone or in combination or as part of any other materials the public company has posted on the electronic network in compliance with federal law) to any shareholder entitled to such a notice who so requests.

(12) If this title prescribes requirements for notices or other communications in particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe requirements for notices or other communications, not inconsistent with this section or other provisions of this title, those requirements govern. The articles of incorporation or bylaws may ~~((authorize or))~~ require delivery of notices of meetings of directors by electronic mail or other electronic transmission.

(13) In the event that any provisions of this title are deemed to modify, limit, or supersede the federal electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., the provisions of this title will control to the maximum extent permitted by section 102(a)(2) of that federal act.

Sec. 3. RCW 23B.01.420 and 2020 c 57 s 41 are each amended to read as follows:

(1) A corporation has delivered written notice or (any other report or statement to all shareholders of record who share a common address if all of the following requirements are met:

(a) The corporation delivers one copy of the notice, report, or statement to the common address;

(b) The corporation addresses the notice, report, or statement to the shareholders who share that address either as a group or to each of the shareholders individually or in any other manner to which each of those shareholders has consented; and

(c) Each of those shareholders consents to delivery of a single copy of such notice, report, or statement to the shareholders' common address(~~(, and the corporation notifies each shareholder of the duration of that shareholder's consent, and explains the manner by which the shareholder can revoke the consent)).~~)

(2) For purposes of this section, "address" means a street address, a post office box number, a facsimile telephone number, an address, location, or system for electronic transmissions, an ~~((email))~~ electronic mail address, or another similar destination to which ~~((records))~~ documents are delivered.

(3) ~~((If a shareholder delivers written notice of revocation to consent to delivery of a single copy of any notice, report, or statement to a common address, or delivers written notice to the corporation that the shareholder wishes to receive an individual copy of any notice, report, or statement, the corporation shall begin sending individual copies to that))~~ Any consent described in subsection (1) of this section is revocable by any shareholder who delivers written notice of revocation to the corporation. If the written notice of revocation is delivered, the corporation must begin providing individual notices, reports, or statements to the revoking shareholder within thirty days after delivery of the written notice of revocation.

(4) ~~((Prior to the delivery of notice by electronic transmission to a common address, each shareholder consenting to receive notice under this section must also have consented to the receipt of notices by electronic transmission as provided in RCW 23B.01.410.))~~ Any shareholder who fails to object by written notice to the corporation, within 60 days of written notice by the corporation of its intention to deliver single copies of notices, reports, or statements to shareholders who share a common address as permitted by subsection (1) of this section, will be deemed to have consented to receiving single copies at the common address, on condition that the notice of intention explains that consent may be revoked and the method for revoking consent.

Sec. 4. RCW 23B.07.040 and 2020 c 194 s 15 and 2020 c 57 s 50 are each reenacted and amended to read as follows:

(1)(a) Corporate action required or permitted by this title to be approved by a shareholder vote at a meeting may be approved without a meeting or a vote if either:

(i) The corporate action is approved by all shareholders entitled to vote on the corporate action; or

(ii) The corporate action is approved by shareholders holding of record or otherwise entitled to vote in the aggregate not less than the minimum number of votes that would be necessary to approve such corporate action at a meeting at which all shares entitled to vote on the corporate action were present and voted, and at the time the corporate action is approved the corporation is authorized to approve such corporate action under this subsection (1)(a)(ii) by a general or limited authorization contained in its articles of incorporation, except that if a corporation's articles of incorporation authorize shareholders to cumulate their

votes when electing directors pursuant to RCW 23B.07.280, shareholders may not elect directors by less than unanimous written consent.

(b) Corporate action may be approved by shareholders without a meeting or a vote if the approval is evidenced by one or more written consents:

(i) Executed by shareholders holding of record or otherwise entitled to vote in the aggregate not less than the minimum number of votes necessary under (a)(i) or (ii) of this subsection;

(ii) Indicating the date of execution, which date must be on or after the applicable record date determined in accordance with subsection (2) of this section;

(iii) Describing the corporate action being approved; and

(iv) Delivered to the corporation for filing by the corporation with the minutes or corporate records in accordance with subsection (4) of this section. When delivered to each shareholder for execution, the consent must include or be accompanied by the same material that would have been required by this title to be delivered to shareholders in or accompanying a notice of meeting at which the proposed corporate action would have been submitted for shareholder approval. A shareholder may withdraw an executed shareholder consent by delivering a written notice of withdrawal to the corporation prior to the time when shareholder consents sufficient to approve the corporate action have been delivered to the corporation.

(c) A written consent in the form of an electronic transmission (~~must contain or be~~) will be deemed to have been executed by a shareholder if it indicates that shareholder's present intent to approve the corporate action and contains or is accompanied by information from which the corporation can determine that the electronic transmission was transmitted by the shareholder and the date on which the shareholder transmitted the electronic transmission.

(2) The record date for determining shareholders entitled to approve a corporate action without a meeting may be fixed under RCW 23B.07.030 or 23B.07.070, but if not so fixed shall be the date of execution indicated on the earliest dated shareholder consent executed under subsection (1) of this section, even though such shareholder consent may not have been delivered to the corporation on that date.

(3)(a) Notice that shareholder consents are being sought under subsection (1)(a) of this section must be given, by the corporation or by another person soliciting such consents, on or promptly after the record date, to all shareholders entitled to vote on the record date who have not yet executed the shareholder consent and, if this title would otherwise require that notice of a meeting of shareholders to consider the proposed corporate action be given to nonvoting shareholders, to all nonvoting shareholders as of the record date. Notice given under this subsection (3)(a) must include or be accompanied by the same information required to be included in or to accompany the shareholder consent under subsection (1)(b)(iii) and (iv) of this section.

(b) Notice that sufficient written consents have been executed to approve the proposed corporate action under either of subsection (1)(a)(i) or (ii) of this section must be given by the corporation, promptly after delivery to the corporation of written consents sufficient to approve the corporate action in accordance with subsection (4) of this section, to all shareholders entitled to vote on the record date and, if this title would otherwise require that notice of a

meeting of shareholders to consider the proposed corporate action be given to nonvoting shareholders, to all nonvoting shareholders as of the record date.

(4) Unless the consent executed by shareholders specifies a later time as the time at which the approval of the corporate action is to be effective, shareholder approval obtained under this section is effective when:

(a) Executed shareholder consents sufficient to approve the proposed corporate action have been delivered to the corporation in any manner authorized by RCW 23B.01.410; and

(b) Any period of advance notice required by the corporation's articles of incorporation to be given to any nonconsenting shareholders has been satisfied. No written consent is effective to approve a proposed corporate action unless, within sixty days after the earliest date on which a consent delivered to the corporation as required by this section was executed, written consents executed by a sufficient number of shareholders to approve the corporate action are delivered to the corporation.

(5) Approval of corporate action by written consents under this section has the effect of a meeting vote and may be described as such in any document, except that, if the corporate action requires the filing of a certificate under any other section of this title, the certificate so filed shall state, in lieu of any statement required by that section concerning any vote of shareholders, that shareholder approval has been obtained in accordance with this section and that notice to any nonconsenting shareholders has been given to the extent required by this section.

(6) The notice requirements in subsection (3)(a) and (b) of this section will not delay the effectiveness of approval of corporate action by written consents, and failure to comply with those notice requirements will not invalidate approval of corporate action by written consents; except that this subsection is not intended to limit judicial power to fashion any appropriate remedy in favor of a shareholder adversely affected by a failure to give such notice in accordance with those subsections.

Sec. 5. RCW 23B.08.210 and 2020 c 57 s 59 are each amended to read as follows:

(1) Unless the articles of incorporation or bylaws provide otherwise, corporate action required or permitted by this title to be approved at a board of directors' meeting may be approved without a meeting if the corporate action is approved by all members of the board. The approval of the corporate action must be evidenced by one or more written consents describing the corporate action being approved, executed by each director either before or after the corporate action becomes effective, and delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(2) A written consent in the form of an electronic transmission (~~must contain or be~~) will be deemed to have been executed by a director if it indicates the director's present intent to approve the corporate action and contains or is accompanied by information from which the corporation can determine that the electronic transmission was transmitted by the director and the date on which the director transmitted the electronic transmission.

(3) Corporate action is approved under this section when the last director executes the consent.

(4) A consent under this section has the effect of a meeting vote and may be described as such in any document.

Passed by the Senate February 3, 2021.

Passed by the House April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 85

[Senate Bill 5015]

BALLOT DROP BOXES—FRAUDULENT PORTRAYAL

AN ACT Relating to fraudulent portrayal of ballot drop boxes; and amending RCW 29A.84.610.

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

Sec. 1. RCW 29A.84.610 and 2003 c 111 s 2127 are each amended to read as follows:

A person is guilty of a gross misdemeanor who knowingly:

(1) Deceives any voter in recording his or her vote by providing incorrect or misleading recording information or by providing faulty election equipment or records; (~~(or)~~)

(2) Records the vote of any voter in a manner other than as designated by the voter; or

(3) Misrepresents an unofficial ballot collection site or device as an official ballot drop box that has been established by the county auditor.

Such a gross misdemeanor is punishable to the same extent as a gross misdemeanor that is punishable under RCW 9A.20.021.

Passed by the Senate March 5, 2021.

Passed by the House April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 86

[Senate Bill 5016]

TRACKED ALL-TERRAIN VEHICLES—REGISTRATION

AN ACT Relating to tracked and wheeled all-terrain vehicles; amending RCW 46.10.300; adding a new section to chapter 46.04 RCW; adding a new section to chapter 46.10 RCW; and adding a new section to chapter 46.09 RCW.

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

Sec. 1. RCW 46.10.300 and 2019 c 262 s 5 are each 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 RCW 46.04.545, and "tracked all-terrain vehicle" as defined in section 2 of this act.

NEW SECTION. Sec. 2. A new section is added to chapter 46.04 RCW to read as follows:

"Tracked all-terrain vehicle" means any "wheeled all-terrain vehicle" as defined in RCW 46.09.310 and weighing less than two thousand pounds in stock configuration, with tracks or a combination of tracks and skis installed in place of the standard low-pressure tires.

NEW SECTION. Sec. 3. A new section is added to chapter 46.10 RCW to read as follows:

The owner of a wheeled all-terrain vehicle weighing less than two thousand pounds in stock configuration, when properly converted, as a tracked all-terrain vehicle, may apply for a snowmobile registration as provided in section 4 of this act and under the terms and for the purposes of this chapter.

NEW SECTION. Sec. 4. A new section is added to chapter 46.09 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 wheeled all-terrain vehicle to maintain concurrent but separate registrations for the vehicle, for use as a wheeled all-terrain vehicle and for use as a tracked all-terrain vehicle.

(2) The department shall allow the owner of a wheeled all-terrain vehicle to maintain concurrent licenses for the vehicle for use as a wheeled all-terrain vehicle and for use as a tracked all-terrain vehicle. When the vehicle is registered as a wheeled all-terrain vehicle, the terms of the registration are those under this chapter that apply to wheeled all-terrain vehicles, including applicable fees. When the vehicle is registered as a tracked all-terrain vehicle, 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, which must be submitted by the wheeled all-terrain vehicle owner when initially applying for a snowmobile registration under chapter 46.10 RCW for the use of the converted wheeled all-terrain vehicle as a tracked all-terrain vehicle. The declaration must include a statement signed by the owner that a wheeled all-terrain vehicle that had been previously converted to a tracked all-terrain vehicle must conform with all applicable federal motor vehicle safety standards and state standards while in use as a wheeled all-terrain vehicle upon public roads, streets, or highways. Once submitted by the wheeled all-terrain vehicle 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.

Passed by the Senate March 4, 2021.

Passed by the House April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 87

[Senate Bill 5018]

ACUPUNCTURE AND EASTERN MEDICINE—SCOPE OF PRACTICE

AN ACT Relating to acupuncture and Eastern medicine; and amending RCW 18.06.010 and 18.06.230.

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

Sec. 1. RCW 18.06.010 and 2019 c 308 s 2 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"~~) and Eastern medicine" means a health care service utilizing acupuncture or Eastern medicine diagnosis and treatment to promote health and treat organic or functional disorders (~~and includes the following~~), which includes a variety of traditional and modern acupuncture and Eastern medicine therapeutic treatments, such as the practice of acupuncture techniques and herbal medicine to maintain and promote wellness, prevent, manage, and reduce pain, and treat substance use disorder. Acupuncture and Eastern medicine includes the following:

(a) (~~Acupuncture, including the use~~) Use of presterilized, disposable needles, such as filiform needles, and other acupuncture needles, syringes, or lancets to directly and indirectly stimulate meridians and acupuncture points (and meridians) including ashi points, motor points, trigger points, and other nonspecific points throughout the body;

(b) Use of electrical, mechanical, or magnetic devices to stimulate meridians and acupuncture points (and meridians) including ashi points, motor points, trigger points, and other nonspecific points throughout the body;

(c) Intramuscular needling and dry needling of trigger points and other nonspecific points throughout the body in accordance with acupuncture and Eastern medicine training;

(d) All points and protocols for ear acupuncture including auricular acupuncture, national acupuncture detoxification association protocol, battlefield acupuncture, and the Nogier system;

(e) Use of contact needling and noninsertion tools such as teishin, enshin, or zanshin;

(f) Moxibustion;

~~((f))~~ (g) Acupressure;

~~((g))~~ (h) Cupping;

~~((h))~~ (i) Dermal friction technique;

~~((i))~~ (j) Infra-red;

~~((j))~~ (k) Sonopuncture;

~~((k))~~ (l) Laserpuncture;

~~((l))~~ (m) Point injection therapy, 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 acupuncture or Eastern medicine. Point injection therapy also includes injection of local anesthetics, such as lidocaine and procaine, for reduction of pain during point injection therapy, consistent with the practice of acupuncture and Eastern medicine and training requirements as defined in rule. An acupuncturist or acupuncture and Eastern medicine practitioner using point injection therapy who has met the training and education requirements established pursuant to RCW 18.06.230 may use oxygen, and epinephrine for potential emergency purposes, such as an allergic or adverse reaction, for patient care and safety. 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;

~~((m))~~ (n) Dietary advice and health education based on acupuncture or Eastern medical theory, including the recommendation and sale of herbs, vitamins, minerals, and dietary and nutritional supplements;

~~((n))~~ (o) Breathing, relaxation, and Eastern exercise techniques;

~~((o))~~ (p) Qi gong;

~~((p))~~ (q) Eastern massage and Tui na, which is a method of Eastern bodywork, characterized by the kneading, pressing, rolling, shaking, and stretching of the body and does not include spinal manipulation; and

~~((q))~~ (r) Superficial heat and cold therapies.

(2) "Acupuncturist" or "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 acupuncturist or acupuncture and Eastern medicine practitioner in order to provide the techniques and services in subsection (1)~~((f))~~ (n) through ~~((g))~~ (r) of this section or to sell herbal products.

Sec. 2. RCW 18.06.230 and 2019 c 308 s 12 are each amended to read as follows:

(1) Prior to providing point injection therapy services, an acupuncturist or acupuncture and Eastern medicine practitioner must obtain the education and training necessary to provide the service.

(2) Any 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.

(3) Prior to administering local anesthetics, epinephrine, or oxygen in providing point injection therapy services, an acupuncturist or acupuncture and Eastern medicine practitioner must satisfy education and training requirements established by the department. The department must adopt rules establishing these requirements by July 1, 2022.

Passed by the Senate February 23, 2021.

Passed by the House April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 88

[Engrossed Senate Bill 5026]

PORT DISTRICTS AND DEVELOPMENT AUTHORITIES—CARGO HANDLING
EQUIPMENT PURCHASE

AN ACT Relating to moneys available to a port district allocated for the purchase of zero and near zero emissions cargo handling equipment; adding a new chapter to Title 53 RCW; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) Moneys available to a port district or a port development authority may be used to purchase zero and near zero emissions cargo handling equipment and infrastructure supporting that equipment for the use of the port district, port development authority, or tenants or lessees thereof.

(2) Moneys available to a port district or a port development authority shall not be used to purchase fully automated marine container cargo handling equipment.

(3) For the purposes of this section:

(a) "Fully automated marine container cargo handling equipment" means equipment that is remotely operated or remotely monitored, with or without the exercise of human intervention or control.

(b) "Port development authority" means a port public development authority created by a single port district or jointly created by two port districts in accordance with RCW 53.57.020.

(4) This section expires December 31, 2031.

NEW SECTION. Sec. 2. Section 1 of this act constitutes a new chapter in Title 53 RCW.

Passed by the Senate February 23, 2021.

Passed by the House April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 89

[Senate Bill 5046]

WORKERS' COMPENSATION CLAIM RESOLUTION SETTLEMENT AGREEMENTS—
VARIOUS PROVISIONS

AN ACT Relating to workers' compensation claim resolution settlement agreements; amending RCW 51.04.062, 51.04.063, 51.04.065, 51.04.069, and 51.52.120; reenacting and amending RCW 42.56.230; and declaring an emergency.

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

Sec. 1. RCW 42.56.230 and 2019 c 470 s 8, 2019 c 239 s 2, and 2019 c 213 s 2 are each reenacted and amended to read as follows:

The following personal information is exempt from public inspection and copying under this chapter:

(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients;

(2)(a) Personal information:

(i) For a child enrolled in licensed child care in any files maintained by the department of children, youth, and families;

(ii) For a child enrolled in a public or nonprofit program serving or pertaining to children, adolescents, or students, including but not limited to early learning or child care services, parks and recreation programs, youth development programs, and after-school programs;

(iii) For the family members or guardians of a child who is subject to the exemption under this subsection (2) if the family member or guardian has the same last name as the child or if the family member or guardian resides at the same address as the child and disclosure of the family member's or guardian's information would result in disclosure of the personal information exempted under (a)(i) and (ii) of this subsection; or

(iv) For substitute caregivers who are licensed or approved to provide overnight care of children by the department of children, youth, and families.

(b) Emergency contact information under this subsection (2) may be provided to appropriate authorities and medical personnel for the purpose of treating the individual during an emergency situation;

(3) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy;

(4) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would: (a) Be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance authorized under RCW 35.102.145; or (b) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer;

(5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial information as defined in RCW 9.35.005 including social security numbers, except when disclosure is expressly required by or governed by other law;

(6) Personal and financial information related to a small loan or any system of authorizing a small loan in RCW 31.45.093;

(7)(a) Any record used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or 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.

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

(8) All information related to individual claim~~(s)~~ 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. The board of industrial insurance appeals shall provide to the department of labor and industries copies of all final claim resolution settlement agreements;

~~((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;

(10) Until the person reaches eighteen years of age, information, otherwise disclosable under chapter 29A.08 RCW, that relates to a future voter, except for the purpose of processing and delivering ballots;

(11) All information submitted by a person to the state, either directly or through a state-licensed gambling establishment, or Indian tribes, or tribal enterprises that own gambling operations or facilities with class III gaming compacts, as part of the self-exclusion program established in RCW 9.46.071 or 67.70.040 for people with a gambling problem or gambling disorder; and

(12) Names, addresses, or other personal information of individuals who participated in the bump-fire stock buy-back program under RCW 43.43.920.

Sec. 2. RCW 51.04.062 and 2011 1st sp.s. c 37 s 301 are each amended to read as follows:

The legislature finds that Washington state's workers' compensation system should be designed to focus on achieving the best outcomes for injured workers. Further, the legislature recognizes that controlling pension costs is key to a financially sound workers' compensation system for employers and workers. To these ends, the legislature recognizes that certain workers would benefit from an option that allows them to initiate claim resolution (~~(structured)~~) settlements in order to pursue work or retirement goals independent of the system, provided that sufficient protections for injured workers are included.

Sec. 3. RCW 51.04.063 and 2014 c 142 s 2 are each amended to read as follows:

(1) Notwithstanding RCW 51.04.060 or any other provision of this title, (~~(beginning on January 1, 2012,)~~) an injured worker who is at least (~~(fifty-five years of age on or after January 1, 2012, fifty-three years of age on or after January 1, 2015, or)~~) fifty years of age (~~(on or after January 1, 2016,)~~) may choose from the following: (a) To continue to receive all benefits for which they are eligible under this title, (b) to participate in vocational training if eligible, or (c) to initiate and agree to a resolution of their claim with a (~~(structured)~~) claim resolution settlement.

(2)(a) As provided in this section, the parties to an allowed claim may initiate and agree to resolve a claim with a (~~(structured)~~) claim resolution settlement for all benefits other than medical. Parties as defined in (b) of this subsection may only initiate claim resolution (~~(structured)~~) settlements if at least one hundred eighty days have passed since the claim was received by the department or self-insurer and the order allowing the claim is final and binding. All requirements of this title regarding entitlement to and payment of benefits will apply during this period. All claim resolution (~~(structured)~~) settlement agreements must be approved by the board of industrial insurance appeals.

(b) For purposes of this section, "parties" means:

(i) For a state fund claim, the worker, the employer, and the department. The employer will not be a party if the costs of the claim or claims are no longer included in the calculation of the employer's experience factor used to determine premiums, if they cannot be located, are no longer in business, or they fail to respond or decline to participate after timely notice of the claim resolution settlement process provided by the board and the department.

(ii) For a self-insured claim, the worker and the employer.

(c) The claim resolution (~~(structured)~~) settlement agreements shall:

(i) Bind the parties with regard to all aspects of a claim except medical benefits unless revoked by one of the parties as provided in subsection (6) of this section;

(ii) (~~(Provide)~~) At the option of the parties, either be paid out in a single lump sum or be paid on a structured basis. If the parties opt to have the settlement paid based on a structured basis, the agreement shall provide a periodic payment schedule to the worker equal to at least twenty-five percent but not more than one hundred fifty percent of the average monthly wage in the state pursuant to RCW 51.08.018, except for the initial payment which may be up to six times the average monthly wage in the state pursuant to RCW 51.08.018;

(iii) Not set aside or reverse an allowance order;

(iv) Not subject any employer who is not a signatory to the agreement to any responsibility or burden under any claim; and

(v) Not subject any funds covered under this title to any responsibility or burden without prior approval from the director or designee.

(d) For state fund claims, the department shall negotiate the claim resolution ((structured)) settlement agreement with the worker or their representative and with the employer or employers and their representative or representatives.

(e) For self-insured claims, the self-insured employer shall negotiate the agreement with the worker or his or her representative. Workers of self-insured employers who are unrepresented may request that the office of the ombuds for self-insured injured workers provide assistance or be present during negotiations.

(f) Terms of the agreement may include the parties' agreement that the claim shall remain open for future necessary medical or surgical treatment related to the injury where there is a reasonable expectation such treatment is necessary. The parties may also agree that specific future treatment shall be provided without the application required in RCW 51.32.160.

(g) Any claim resolution ((structured)) settlement agreement entered into under this section must be in writing and signed by the parties or their representatives and must clearly state that the parties understand and agree to the terms of the agreement.

(h) If a worker is not represented by an attorney at the time of signing a claim resolution ((structured)) settlement agreement, the parties must forward a copy of the signed agreement to the board with a request for a conference with an industrial appeals judge. The industrial appeals judge must schedule a conference with all parties within fourteen days for the purpose of (i) reviewing the terms of the proposed settlement agreement by the parties; and (ii) ensuring the worker has an understanding of the benefits generally available under this title and that a claim resolution ((structured)) settlement agreement may alter the benefits payable on the claim or claims. The judge may schedule the initial conference for a later date with the consent of the parties.

(i) Before approving the agreement, the industrial appeals judge shall ensure the worker has an adequate understanding of the agreement and its consequences to the worker.

(j) The industrial appeals judge may approve a claim resolution ((structured)) settlement agreement only if the judge finds that the agreement is in the best interest of the worker. When determining whether the agreement is in the best interest of the worker, the industrial appeals judge shall consider the following factors, taken as a whole, with no individual factor being determinative:

(i) The nature and extent of the injuries and disabilities of the worker;

(ii) The age and life expectancy of the injured worker;

(iii) Other benefits the injured worker is receiving or is entitled to receive and the effect a claim resolution ((structured)) settlement agreement might have on those benefits; and

(iv) The marital or domestic partnership status of the injured worker.

(k) Within seven days after the conference, the industrial appeals judge shall issue an order allowing or rejecting the claim resolution ((structured)) settlement agreement. There is no appeal from the industrial appeals judge's decision.

(1) If the industrial appeals judge issues an order allowing the claim resolution ((structured)) settlement agreement, the order must be submitted to the board.

(3) Upon receiving the agreement, the board shall approve it within thirty working days of receipt unless it finds that:

(a) The parties have not entered into the agreement knowingly and willingly;

(b) The agreement does not meet the requirements of a claim resolution ((structured)) settlement agreement;

(c) The agreement is the result of a material misrepresentation of law or fact;

(d) The agreement is the result of harassment or coercion; or

(e) The agreement is unreasonable as a matter of law.

(4) If a worker is represented by an attorney at the time of signing a claim resolution ((structured)) settlement agreement, the parties shall submit the agreement directly to the board without the conference described in this section.

(5) If the board approves the agreement, it shall provide notice to all parties. The department shall place the agreement in the applicable claim file or files.

(6) A party may revoke consent to the claim resolution ((structured)) settlement agreement by providing written notice to the other parties and the board within thirty days after the date the agreement is approved by the board.

(7) To the extent the worker is entitled to any benefits while a claim resolution ((structured)) settlement agreement is being negotiated or during the revocation period of an agreement, the benefits must be paid pursuant to the requirements of this title until the agreement becomes final.

(8) A claim resolution ((structured)) settlement agreement that meets the conditions in this section and that has become final and binding as provided in this section is binding on all parties to the agreement as to its terms and the injuries and occupational diseases to which the agreement applies. A claim resolution ((structured)) settlement agreement that has become final and binding is not subject to appeal.

(9) All payments made to a worker pursuant to a final claim resolution ((structured)) settlement agreement must be reported to the department as claims costs pursuant to this title. If a self-insured employer contracts with a third-party administrator for claim services and the payment of benefits under this title, the third-party administrator shall also disburse the ((structured)) claim resolution settlement payments pursuant to the agreement.

(10) Claims closed pursuant to a claim resolution ((structured)) settlement agreement can be reopened pursuant to RCW 51.32.160 for medical treatment only. Further temporary total, temporary partial, permanent partial, or permanent total benefits are not payable under the same claim or claims for which a claim resolution ((structured)) settlement agreement has been approved by the board and has become final.

(11) Parties aggrieved by the failure of any other party to comply with the terms of a claim resolution ((structured)) settlement agreement have one year from the date of failure to comply to petition to the board. If the board determines that a party has failed to comply with an agreement, it will order compliance and will impose a penalty payable to the aggrieved party of up to twenty-five percent of the monetary amount unpaid at the time the petition for

noncompliance was filed. The board will also decide on any disputes as to attorneys' fees for services related to claim resolution ((structured)) settlement agreements.

(12) Parties and their representatives may not use settlement offers or the claim resolution ((structured)) settlement agreement process to harass or coerce any party. If the department determines that an employer has engaged in a pattern of harassment or coercion, the employer may be subject to penalty or corrective action, and may be removed from the retrospective rating program or be decertified from self-insurance under RCW 51.14.030.

(13) All information related to individual claim((s)) resolution ((structured)) settlement agreements submitted to the board of industrial insurance appeals, other than final orders from the board of industrial insurance appeals, is private and exempt from disclosure under chapter 42.56 RCW. The board of industrial insurance appeals shall provide to the department copies of all final claim resolution settlement agreements.

(14) Information gathered during the claim((s)) resolution ((structured)) settlement agreement process, including but not limited to forms filled out by the parties and testimony during a claim((s)) resolution ((structured)) settlement conference before the board of industrial insurance appeals, is a statement made in the course of compromise negotiations and is inadmissible in any future litigation.

Sec. 4. RCW 51.04.065 and 2011 1st sp.s. c 37 s 303 are each amended to read as follows:

The department must maintain copies of all claim resolution ((structured)) settlement agreements entered into between the parties and furnish copies of such agreements to any party actively negotiating a subsequent claim resolution ((structured)) settlement agreement with the worker on any allowed claim when requested. An employer may not consider a prior agreement when making a decision about hiring or the terms or conditions of employment.

Sec. 5. RCW 51.04.069 and 2011 1st sp.s. c 37 s 306 are each amended to read as follows:

On December 1, 2011, and annually thereafter through December 1, 2014, the department shall report annually to the appropriate committees of the legislature on the implementation of claim resolution ((structured)) settlement agreements. In calendar years 2015, 2019, and 2023, the department shall contract for an independent study of claim resolution ((structured)) settlement agreements approved by the board under this section. The study must be performed by a researcher with experience in workers' compensation issues. When selecting the independent researcher, the department shall consult with the workers' compensation advisory committee. The study must evaluate the quality and effectiveness of ((structured)) claim resolution settlement agreements of state fund and self-insured claims, provide information on the impact of these agreements to the state fund and to self-insured employers, and evaluate the outcomes of workers who have resolved their claims through the claim resolution ((structured)) settlement agreement process. The study must be submitted to the appropriate committees of the legislature.

Sec. 6. RCW 51.52.120 and 2011 1st sp.s. c 37 s 304 are each amended to read as follows:

(1) Except for claim resolution (~~((structured))~~) settlement agreements, it shall be unlawful for an attorney engaged in the representation of any worker or beneficiary to charge for services in the department any fee in excess of a reasonable fee, of not more than thirty percent of the increase in the award secured by the attorney's services. Such reasonable fee shall be fixed by the director or the director's designee for services performed by an attorney for such worker or beneficiary, if written application therefor is made by the attorney, worker, or beneficiary within one year from the date the final decision and order of the department is communicated to the party making the application.

(2) If, on appeal to the board, the order, decision, or award of the department is reversed or modified and additional relief is granted to a worker or beneficiary, or in cases where a party other than the worker or beneficiary is the appealing party and the worker's or beneficiary's right to relief is sustained by the board, the board shall fix a reasonable fee for the services of his or her attorney in proceedings before the board if written application therefor is made by the attorney, worker, or beneficiary within one year from the date the final decision and order of the board is communicated to the party making the application. In fixing the amount of such attorney's fee, the board shall take into consideration the fee allowed, if any, by the director, for services before the department, and the board may review the fee fixed by the director. Any attorney's fee set by the department or the board may be reviewed by the superior court upon application of such attorney, worker, or beneficiary. The department or self-insured employer, as the case may be, shall be served a copy of the application and shall be entitled to appear and take part in the proceedings. Where the board, pursuant to this section, fixes the attorney's fee, it shall be unlawful for an attorney to charge or receive any fee for services before the board in excess of that fee fixed by the board.

(3) For claim resolution (~~((structured))~~) settlement agreements, fees for attorney services are limited to fifteen percent of the total amount to be paid to the worker after the agreement becomes final. The board will also decide on any disputes as to attorneys' fees for services related to claim resolution (~~((structured))~~) settlement agreements consistent with the procedures in subsection (2) of this section.

(4) In an appeal to the board involving the presumption established under RCW 51.32.185, the attorney's fee shall be payable as set forth under RCW 51.32.185.

(5) Any person who violates this section is guilty of a misdemeanor.

NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate February 10, 2021.

Passed by the House April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 90

[Substitute Senate Bill 5068]

APPLE HEALTH—POSTPARTUM COVERAGE

AN ACT Relating to improving maternal health outcomes by extending coverage during the postpartum period; adding a new section to chapter 74.09 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. (1) In Washington and across the country, maternal mortality rates continue to be unacceptably high. The maternal mortality rate in the United States is higher than in most developed countries. Approximately 700 people die each year in the United States due to pregnancy-related conditions. The majority of these deaths are preventable.

(2) National and state maternal mortality data reveals significant racial and ethnic disparities. Nationally, black women are two to three times more likely to die from a pregnancy-related cause than white women. In this state, data from the maternal mortality review panel reveals that American Indian and Alaska Native women are six to seven times as likely to die from a pregnancy-related cause than white women. Significant disparities in maternal mortality rates also exist for Hispanic, Asian, and multiracial women in Washington.

(3) Over 50 percent of pregnancy-related deaths in Washington state are women enrolled in medicaid. In 2019, medicaid covered almost 37,000 births which is nearly half of the total of nonmilitary births in Washington state.

(4) The centers for disease control and prevention find pregnancy-related deaths occur up to one year postpartum, and data shows that health needs continue during that entire year. In Washington, nearly one-third of all pregnancy-related deaths and the majority of suicides and accidental overdoses occurred between 43 and 365 days postpartum.

(5) The maternal mortality review panel has identified access to health care services and gaps in continuity of care, especially during the postpartum period, as factors that contribute to preventable pregnancy-related deaths. In their October 2019 report to the legislature, the panel recommended ensuring funding and access to postpartum care and support through the first year after pregnancy. The panel also recommended addressing social determinants of health, structural racism, provider biases, and other social inequities to reduce maternal mortality in priority populations.

(6) Approximately 50,000 people also experience serious complications from childbirth each year, resulting in increased medical costs, longer hospitalization stays, and long-term health effects.

(7) Postpartum medicaid coverage currently ends 60 days after pregnancy, creating an unsafe gap in coverage. Continuity of care is critical during this vulnerable time, and uninterrupted health care coverage provides birthing parents with access to stable and consistent care. Extending health care coverage through the first year postpartum is one of the best tools for increasing access to care and improving maternal and infant health. A health impact review published by the state board of health found very strong evidence that this policy would decrease inequities by race and ethnicity, immigration status, socioeconomic status, and geography.

(8) During the public health emergency, a federal maintenance of effort requirement has extended medicaid coverage beyond 60 days postpartum. This

extension is critical, with pregnancy-related deaths increasing due to COVID-19. Pregnant women are more likely to be admitted to the intensive care unit and receive invasive ventilation and are at increased risk of death compared to nonpregnant women. The pandemic has also exacerbated the behavioral health challenges normally faced in the pregnancy and postpartum period. It has also highlighted and contributed to increased housing crises. Even outside of the pandemic, research shows that pregnancy can increase a woman's risk of becoming homeless, and pregnant women face significantly greater health risks while unstably housed. The legislature is committed to continuing coverage for this population beyond the maintenance of effort requirement.

(9) Pending federal legislation, the helping moms act, would provide federal matching funds to states that provide one year of postpartum coverage under medicaid and the children's health insurance program.

(10) The legislature therefore intends to extend health care coverage from 60 days to 12 months postpartum.

NEW SECTION. Sec. 2. A new section is added to chapter 74.09 RCW to read as follows:

(1) The authority shall extend health care coverage from 60 days postpartum to one year postpartum for pregnant or postpartum persons who, on or after the expiration date of the federal public health emergency declaration related to COVID-19, are receiving postpartum coverage provided under this chapter.

(2) By June 1, 2022, the authority must:

(a) Provide health care coverage to postpartum persons who reside in Washington state, have countable income equal to or below 193 percent of the federal poverty level, and are not otherwise eligible under Title XIX or Title XXI of the federal social security act; and

(b) Ensure all persons approved for pregnancy or postpartum coverage at any time are continuously eligible for postpartum coverage for 12 months after the pregnancy ends regardless of whether they experience a change in income during the period of eligibility.

(3) Health care coverage under this section must be provided during the 12-month period beginning on the last day of the pregnancy.

(4) The authority shall not provide health care coverage under this section to individuals who are eligible to receive health care coverage under Title XIX or Title XXI of the federal social security act. Health care coverage for these individuals shall be provided by a program that is funded by Title XIX or Title XXI of the federal social security act. Further, the authority shall make every effort to expedite and complete eligibility determinations for individuals who are presumptively eligible to receive health care coverage under Title XIX or Title XXI of the federal social security act to ensure the state is receiving the maximum federal match. This includes, but is not limited to, working with the managed care organizations to provide continuous outreach in various modalities until the individual's eligibility determination is completed. Beginning January 1, 2022, the authority must submit quarterly reports to the caseload forecast work group on the number of individuals who are presumptively eligible to receive health care coverage under Title XIX or Title XXI of the federal social security act but are awaiting for the authority to complete eligibility determination, the number of individuals who were presumptively eligible but are now receiving health care coverage with the

maximum federal match under Title XIX or Title XXI of the federal social security act, and outreach activities including the work with managed care organizations.

(5) To ensure continuity of care and maximize the efficiency of the program, the amount and scope of health care services provided to individuals under this section must be the same as that provided to pregnant and postpartum persons under medical assistance, as defined in RCW 74.09.520.

(6) In administering this program, the authority must seek any available federal financial participation under the medical assistance program, as codified at Title XIX of the federal social security act, the state children's health insurance program, as codified at Title XXI of the federal social security act, and any other federal funding sources that are now available or may become available. This includes, but is not limited to, ensuring the state is receiving the maximum federal match for individuals who are presumptively eligible to receive health care coverage under Title XIX or Title XXI of the federal social security act by expediting completion of the individual's eligibility determination.

(7) Working with stakeholder and community organizations and the Washington health benefit exchange, the authority must establish a comprehensive community education and outreach campaign to facilitate applications for and enrollment in the program or into a more appropriate program where the state receives maximum federal match. Subject to the availability of amounts appropriated for this specific purpose, the education and outreach campaign must provide culturally and linguistically accessible information to facilitate participation in the program, including but not limited to enrollment procedures, program services, and benefit utilization.

(8) Beginning January 1, 2022, the managed care organizations contracted with the authority to provide postpartum coverage must annually report to the legislature on their work to improve maternal health for enrollees, including but not limited to postpartum services offered to enrollees, the percentage of enrollees utilizing each postpartum service offered, outreach activities to engage enrollees in available postpartum services, and efforts to collect eligibility information for the authority to ensure the enrollee is in the most appropriate program for the state to receive the maximum federal match.

NEW SECTION. Sec. 3. Unless federal matching funds become available by the effective date of this section, the health care authority must submit a waiver request to the federal centers for medicare and medicaid services to allow for the state to receive federal match for the coverage of postpartum persons identified in section 2 of this act. The authority shall provide coverage to all eligible postpartum persons identified under section 2 of this act regardless of federal approval of the waiver request. The authority must report to the legislature on the status of the waiver request by December 1, 2021, and inform the legislature of any statutory changes necessary to allow the state to receive federal match for the coverage of postpartum persons identified in section 2 of this act.

Passed by the Senate February 25, 2021.

Passed by the House April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 91

[Senate Bill 5106]

PUBLIC FUNDS—DEPOSIT WITH CREDIT UNION

AN ACT Relating to municipal access to local financial services; and repealing RCW 39.58.240.

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

NEW SECTION. **Sec. 1.** RCW 39.58.240 (Credit union as public depository—Conditions) and 2018 c 237 s 3, 2012 c 26 s 1, & 2010 c 36 s 1 are each repealed.

Passed by the Senate February 16, 2021.

Passed by the House April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 92

[Senate Bill 5131]

RECALL PETITIONS—COUNTY CLERK DUTIES

AN ACT Relating to county clerks duties related to recall petitions; and amending RCW 29A.56.140.

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

Sec. 1. RCW 29A.56.140 and 2003 c 111 s 1410 are each amended to read as follows:

Within ~~((fifteen))~~ 15 days after receiving the petition, the superior court shall have conducted a hearing on and shall have determined, without cost to any party, (1) whether or not the acts stated in the charge satisfy the criteria for which a recall petition may be filed, and (2) the adequacy of the ballot synopsis. The ~~((clerk of the superior))~~ court shall notify the person subject to recall and the person demanding recall of the hearing date. Both persons may appear with counsel. The court may hear arguments as to the sufficiency of the charges and the adequacy of the ballot synopsis. The court shall not consider the truth of the charges, but only their sufficiency. An appeal of a sufficiency decision shall be filed in the supreme court as specified by RCW 29A.56.270. The superior court shall correct any ballot synopsis it deems inadequate. Any decision regarding the ballot synopsis by the superior court is final. The ~~((court))~~ clerk shall certify and transmit the ballot synopsis to the officer subject to recall, the person demanding the recall, and either the secretary of state or the county auditor, as appropriate.

Passed by the Senate February 23, 2021.

Passed by the House April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 93

[Substitute Senate Bill 5152]

VEHICLE AND DRIVER DATA—DISCLOSURE AND USE

AN ACT Relating to enhancing data stewardship and privacy protections for vehicle and driver data by clarifying the allowable uses of personal or identity information, prescribing penalties for data misuse, and codifying existing data contract practices; amending RCW 46.12.630, 46.12.635, 46.12.640, and 46.52.130; adding new sections to chapter 46.04 RCW; adding a new chapter to Title 46 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 46.04 RCW to read as follows:

"Data services" means the practice of providing data sets to governmental entities and businesses, as authorized or required by law.

NEW SECTION. Sec. 2. A new section is added to chapter 46.04 RCW to read as follows:

(1) "Identity information" means information that identifies an individual, or may be used to determine the identity of an individual, including:

- (a) Federal tax identification number or employer identification number;
- (b) Residential and mailing address, but not the five-digit zip code;
- (c) Email address;
- (d) Telephone number;
- (e) Registered and legal vehicle owner name;
- (f) Gender;
- (g) Place of birth;
- (h) Voter information status; and
- (i) Selective service information.

(2) "Personal information" has the same meaning as in RCW 42.56.590.

NEW SECTION. Sec. 3. A new section is added to chapter 46.04 RCW to read as follows:

"Transportation network company" means a corporation, partnership, sole proprietorship, or other entity that operates in this state, and uses a digital network to connect passengers with transportation network company drivers to provide prearranged rides.

NEW SECTION. Sec. 4. (1) **Confidentiality of records.** Any information or record containing personal or identity information obtained by the department, pursuant to the administration of driver and vehicle records, shall be private and confidential except as otherwise provided in federal and state law.

(2) **Obligations of data recipients and subrecipients.** (a) All data recipients and subrecipients, as defined by the department, authorized to receive personal or identity information originating from the department have an affirmative obligation to take all reasonable actions necessary to prevent the unauthorized disclosure and misuse of personal or identity information. The department may require audit or investigation of any entity receiving personal or identity information that originates from the department.

(b) If misuse or an unauthorized disclosure of personal or identity information occurs, all parties aware of the violation must inform the department and take all reasonably available actions to mitigate and rectify the disclosure to the department's standards.

(3) **Contractual requirements.** (a) Prior to providing data services that include the release of any personal or identity information as authorized by federal or state law, the department must enter into a contract with the entity authorized to receive the personal or identity information. The contract must include, at a minimum:

(i) Limitations and restrictions for the use of personal or identity information;

(ii) A requirement that the data recipient allow the department or its agent to conduct regular permissible use audits;

(iii) A requirement that the data recipient undergo regular data security audits, and standards for the conduct of such audits. Internal audit programs required under RCW 43.88.160 are considered independent third-party auditors for the purposes of this section;

(iv) A provision that all costs of the audits performed pursuant to this subsection are not the responsibility of the department;

(v) Provisions governing redisclosure of personal or identity information by a data recipient or subrecipient other than to those categories of parties permitted by contract and standards for the handling of such information;

(vi) Other privacy, compliance, and contractual requirements as may be set forth in rule by the department to protect personal or identity information;

(vii) A statement that the ownership of data provided under this chapter remains with the department, and ownership does not transfer to the data recipient or subrecipient; and

(viii) A provision that the data recipient must conduct or review regular data security and permissible use audits of all subrecipients, and standards for the conduct of such audits.

(b) The department may adopt other contract requirements as necessary to ensure the privacy of individuals and protection of personal or identity information.

(4) **Penalties.** (a) The unauthorized disclosure or use of personal or identity information shall subject the disclosing entity to a civil penalty of up to twenty thousand dollars, per incident, in 2021 and annually adjusted by the department on the first calendar day of each year based on changes in the United States consumer price index for all urban consumers.

(b) Other applicable sanctions under state and federal law may also apply. The amount of any penalties collected pursuant to (a) of this subsection shall be paid into the department's technology improvement and data management account created in RCW 46.68.063.

(c) If personal or identity information provided by the department is used for any purpose other than that authorized in the data recipient's contract with the department, the data recipient and any subrecipient responsible for the misuse, unauthorized disclosure, or nondata destruction may be denied further access to personal or identity information by the department.

Sec. 5. RCW 46.12.630 and 2016 c 80 s 1 are each amended to read as follows:

(1) The department of licensing must furnish lists of registered and legal owners of: (a) Motor vehicles only for the purposes specified in this subsection (1)(a) to the manufacturers of motor vehicles or motor vehicle components, or their authorized agents, to enable those manufacturers to carry out the provisions

of Titles I and IV of the anti car theft act of 1992, the automobile information disclosure act (15 U.S.C. Sec. 1231 et seq.), the clean air act (42 U.S.C. Sec. 7401 et seq.), and 49 U.S.C. Secs. 30101-30183, 30501-30505, and 32101-33118, as these acts existed on January 1, 2014, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section. However, the department may only provide a vehicle or vehicle component manufacturer, or its authorized agents, lists of registered or legal owners who purchased or leased a vehicle manufactured by that manufacturer or a vehicle containing a component manufactured by that component manufacturer. Manufacturers or authorized agents receiving information on behalf of one manufacturer must not disclose this information to any other third party that is not necessary to carry out the purposes of this section; and (b) vessels only for the purposes of this subsection (1)(b) to the manufacturers of vessels, or their authorized agents, to enable those manufacturers to carry out the provisions of 46 U.S.C. Sec. 4310 and any relevant Code of Federal ~~((Regulation[s]))~~ Regulations adopted by the United States coast guard, as these provisions and rules existed on January 1, 2015, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section.

(2) The department of licensing may furnish lists of registered and legal owners of motor vehicles or vessels, only to the entities and only for the purposes specified in this section, to:

(a) The manufacturers of motor vehicles or vessels, and legitimate businesses as defined by the department in rule, or their authorized agents, for purposes of using lists of registered and legal owner information to conduct research activities and produce statistical reports, as long as the entity does not allow personal or identity information received under this section to be published, redisclosed, or used to contact individuals. For purposes of this subsection (2)(a), the department of licensing may only provide the manufacturer of a motor vehicle or vessel, or the manufacturer of components contained in a motor vehicle or vessel, the lists of registered or legal owners who purchased or leased a vehicle or vessel manufactured by that manufacturer or a vehicle or vessel containing components manufactured by that component manufacturer;

(b) Any governmental agency ~~((of the United States or Canada, or political subdivisions thereof, to be used by it or by its authorized commercial agents or contractors only in connection with the enforcement of: (i) Motor vehicle or traffic laws by, or programs related to traffic safety of, that government agency; or (ii) the laws governing vessels, vessel operation, or vessel safety programs administered by that government agency or as otherwise provided by law. Only such parts of the list under (i) and (ii) of this subsection (2)(b) as are required for completion of the work required of the agent or contractor shall be provided to such agent or contractor;)),~~ including any court or law enforcement agency, or any private person or entity acting on behalf of a federal, state, or local agency, or Canada in carrying out its functions: PROVIDED, HOWEVER, That nothing in this section is construed to allow actions prohibited under RCW 43.17.425;

(c) Any insurer or insurance support organization, a self-insured entity, or its agents, employees, or contractors for use in connection with claims investigation activities, antifraud activities, rating, or underwriting;

(d) Any local governmental entity or its agents for use in providing notice to owners of towed and impounded vehicles, or to any law enforcement entity for use, as may be necessary, in locating the owner of or otherwise dealing with a vessel that has become a hazard;

(e) A government agency, commercial parking company, or its agents requiring the names and addresses of registered owners to notify them of outstanding parking violations. Subject to the disclosure agreement provisions of RCW 46.12.635 and the requirements of Executive Order 97-01, the department may provide only the parts of the list that are required for completion of the work required of the company;

(f) ~~((An authorized))~~ Authorized agents or contractor of the department, to be used only in connection with providing motor vehicle or vessel excise tax, licensing, title, and registration information to motor vehicle or vessel dealers;

(g) Any business regularly making loans to other persons to finance the purchase of motor vehicles or vessels, to be used to assist the person requesting the list to determine ownership of specific vehicles or vessels for the purpose of determining whether or not to provide such financing; or

(h) A company or its agents operating a toll facility under chapter 47.46 RCW or other applicable authority requiring the names, addresses, and vehicle information of motor vehicle registered owners to identify toll violators.

(3) Personal or identity information received by an entity listed in subsection (1) or (2) of this section may not be released for direct marketing purposes.

(4) Prior to the release of any lists of vehicle or vessel owners under subsection (1) or (2) of this section, the department must enter into a contract with the entity authorized to receive the data ~~((The contract must include:~~

~~(a) A requirement that the department or its agent conduct both regular permissible use and data security audits subject to the following conditions and limitations:~~

~~(i) The data security audits must demonstrate compliance with the data security standards adopted by the office of the chief information officer.~~

~~(ii) When determining whether to conduct an audit under this subsection, the department must first take into consideration any independent third party audit a data recipient has had before requiring that any additional audits be performed. If the independent third party audit is a data security audit and it meets both recognized national or international standards and the standards adopted by the office of the chief information officer pursuant to (a)(i) of this subsection, the department must accept the audit and the audit is deemed to satisfy the conditions set out in this subsection (4)(a). If the independent third party audit is a permissible use audit and it meets recognized national or international standards, the department must accept the audit and the audit is deemed to satisfy the conditions set out in this subsection (4)(a); and~~

~~(b) A provision that the cost of the audits performed pursuant to this subsection must be borne by the data recipient. A new data recipient must bear the initial cost to set up a system to disburse the data to the data recipient.))~~ pursuant to section 4 of this act.

(5)(a) Beginning January 1, 2015, the department must collect a fee of ten dollars per one thousand individual registered or legal owners included on a list requested by a private entity under subsection (1) or (2) of this section.

Beginning January 1, 2016, the department must collect a fee of twenty dollars per one thousand individual registered or legal vehicle or vessel owners included on a list requested by a private entity under subsection (1) or (2) of this section. Beginning January 1, 2021, the department must collect a fee of twenty-five dollars per one thousand individual registered or legal owners included on a list requested by a private entity under subsection (1) or (2) of this section. The department must prorate the fee when the request is for less than a full one thousand records.

(b) In lieu of the fee specified in (a) of this subsection, if the request requires a daily, weekly, monthly, or other regular update of those vehicle or vessel records that have changed:

(i) Beginning January 1, 2015, the department must collect a fee of one cent per individual registered or legal vehicle or vessel owner record provided to the private entity;

(ii) Beginning January 1, 2016, the department must collect a fee of two cents per individual registered or legal vehicle or vessel owner record provided to the private entity;

(iii) Beginning January 1, 2021, the department must collect a fee of two and one-half cents per individual registered or legal vehicle or vessel owner record provided to the private entity.

(c) The department must deposit any moneys collected under this subsection to the department of licensing technology improvement and data management account created in RCW 46.68.063.

(6) 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.

(7) If a list of registered and legal owners of motor vehicles or vessels is used for any purpose other than that authorized in this section, the (~~manufacturer, governmental agency, commercial parking company, contractor, financial institution, insurer, insurance support organization, self-insured entity, legitimate business entity, toll facility operator~~) recipient under subsection (1) or (2) of this section, or any authorized agent or contractor responsible for the unauthorized disclosure or use will be denied further access to such information by the department of licensing.

(8) For purposes of this section, "personal information" (~~means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the five digit zip code), telephone number, or medical or disability information. However, an individual's photograph, social security number, and any medical or disability-related information is considered highly restricted personal information and may not be released under this section~~) and "identity information" have the same meanings as in section 2 of this act.

Sec. 6. RCW 46.12.635 and 2019 c 278 s 1 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, data recipient, subrecipient, 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 as defined by the department in rule, and 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 [fund]))~~ fund.

(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.

Sec. 7. RCW 46.12.640 and 2016 c 80 s 3 are each amended to read as follows:

(1) The department may review the activities of a person ~~((who))~~ or entity that receives ~~((vehicle or vessel record))~~ personal or identity information to ensure compliance with the limitations imposed on the use of the information. The department ~~((shall))~~ may suspend or revoke for up to five years the privilege of obtaining ~~((vehicle or vessel record))~~ personal or identity information of a person found to be in violation of this chapter or a disclosure agreement executed with the department.

(2) In addition to the penalty in subsection (1) of this section:

(a) The unauthorized disclosure of personal or identity information ~~((from a department vehicle or vessel record));~~ or

(b) The use of a false representation to obtain personal or identity information from the ~~((department's vehicle or vessel records))~~ department; or

(c) The use of personal or identity information obtained from the department ~~((vehicle or vessel records))~~ for a purpose other than what is stated in the request for information or in the disclosure agreement executed with the department; or

(d) The sale or other distribution of any ~~((vehicle or vessel owner name or address))~~ personal or identity information to another person not disclosed in the request or disclosure agreement

is a gross misdemeanor punishable by a fine not to exceed ten thousand dollars, or by imprisonment in a county jail for up to three hundred sixty-four days, or by both such fine and imprisonment for each violation.

Sec. 8. RCW 46.52.130 and 2019 c 99 s 1 are each amended to read as follows:

Upon a proper request, the department may only furnish information contained in an abstract of a person's driving record as permitted under this section. ~~((For the purposes of this section, an "agent" means a representative of an authorized recipient that has contracted with the recipient to request driving records on its behalf and insurance pools established under RCW 48.62.031 of which the authorized recipient is a member.))~~

(1) **Contents of abstract of driving record.** An abstract of a person's driving record, whenever possible, must include:

(a) An enumeration of motor vehicle accidents in which the person was driving, including:

- (i) The total number of vehicles involved;
- (ii) Whether the vehicles were legally parked or moving;
- (iii) Whether the vehicles were occupied at the time of the accident; and
- (iv) Whether the accident resulted in a fatality;

(b) Any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law;

(c) The status of the person's driving privilege in this state; and

(d) Any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer.

(2) **Release of abstract of driving record.** Unless otherwise required in this section, the release of an abstract does not require a signed statement by the subject of the abstract. An abstract of a person's driving record may be furnished to the following persons or entities:

(a) **Named individuals.** (i) An abstract of the full driving record maintained by the department may be furnished to the individual named in the abstract.

(ii) Nothing in this section prevents a court from providing a copy of the driver's abstract to the individual named in the abstract or that named individual's attorney, provided that the named individual has a pending or open infraction or criminal case in that court. A pending case includes criminal cases that have not reached a disposition by plea, stipulation, trial, or amended charge. An open infraction or criminal case includes cases on probation, payment agreement or subject to, or in collections. Courts may charge a reasonable fee for the production and copying of the abstract for the individual.

(b) **Employers or prospective employers.** (i) ~~((A))~~ An abstract of the full driving record maintained by the department may be furnished to an employer or prospective employer or ~~((an))~~ agents acting on behalf of an employer or prospective employer of the named individual for purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer.

~~((B))~~ (ii) The department may provide employers or their agents a three-year insurance carrier driving record of existing employees only for the purposes of sharing the driving record with its insurance carrier for underwriting. Employers may not provide the employees' full driving records to its insurance carrier.

(iii) An abstract of the full driving record maintained by the department may be furnished to an employer or prospective employer or the agent(s) acting on

behalf of an employer or prospective employer of the named individual for purposes unrelated to driving by the individual when a driving record is required by federal or state law, or the employee or prospective employee will be handling heavy equipment or machinery.

(iv) Release of an abstract of the driving record of an employee or prospective employee requires a statement signed by: ((H)) (A) The employee or prospective employee that authorizes the release of the record; and ((H)) (B) the employer attesting that the information is necessary for employment purposes related to driving by the individual as a condition of employment or otherwise at the direction of the employer. If the employer or prospective employer authorizes ((H)) agents to obtain this information on their behalf, this must be noted in the statement. The statement must also note that any information contained in the abstract related to an adjudication that is subject to a court order sealing the juvenile record of an employee or prospective employee may not be used by the employer or prospective employer, or an agent authorized to obtain this information on their behalf, unless required by federal regulation or law. The employer or prospective employer must afford the employee or prospective employee an opportunity to demonstrate that an adjudication contained in the abstract is subject to a court order sealing the juvenile record.

((E)) (v) Upon request of the person named in the abstract provided under this subsection, and upon that same person furnishing copies of court records ruling that the person was not at fault in a motor vehicle accident, the department must indicate on any abstract provided under this subsection that the person was not at fault in the motor vehicle accident.

((D)) (vi) No employer or prospective employer, nor any agents of an employer or prospective employer, may use information contained in the abstract related to an adjudication that is subject to a court order sealing the juvenile record of an employee or prospective employee for any purpose unless required by federal regulation or law. The employee or prospective employee must furnish a copy of the court order sealing the juvenile record to the employer or prospective employer, or the agents of the employer or prospective employer, as may be required to ensure the application of this subsection.

~~((ii) In addition to the methods described in (b)(i) of this subsection, the director may enter into a contractual agreement with an employer or its agent for the purpose of reviewing the driving records of existing employees for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.))~~

(c) **Volunteer organizations.** (i) An abstract of the full driving record maintained by the department may be furnished to a volunteer organization or an agent for a volunteer organization for which the named individual has submitted an application for a position that would require driving by the individual at the direction of the volunteer organization.

(ii) Release of an abstract of the driving record of a prospective volunteer requires a statement signed by: (A) The prospective volunteer that authorizes the release of the record; and (B) the volunteer organization attesting that the

information is necessary for purposes related to driving by the individual at the direction of the volunteer organization. If the volunteer organization authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

(d) **Transit authorities.** An abstract of the full driving record maintained by the department may be furnished to an employee or agents of a transit authority checking prospective or existing volunteer vanpool drivers for insurance and risk management needs.

~~((The director may enter into a contractual agreement with a transit authority or its agent for the purpose of reviewing the driving records of existing vanpool drivers for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that does not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.))~~

(e) **Insurance carriers.** (i) An abstract of the driving record maintained by the department covering the period of not more than the last three years may be furnished to an insurance company or its agents:

(A) That has motor vehicle or life insurance in effect covering the named individual;

(B) To which the named individual has applied; or

(C) That has insurance in effect covering the employer or a prospective employer of the named individual.

(ii) The abstract provided to the insurance company must:

(A) Not contain any information related to actions committed by law enforcement officers or firefighters, as both terms are defined in RCW 41.26.030, or by Washington state patrol officers, while driving official vehicles in the performance of their occupational duty, or by registered tow truck operators as defined in RCW 46.55.010 in the performance of their occupational duties while at the scene of a roadside impound or recovery so long as they are not issued a citation. This does not apply to any situation where the vehicle was used in the commission of a misdemeanor or felony;

(B) Include convictions under RCW 46.61.5249 and 46.61.525, except that the abstract must report the convictions only as negligent driving without reference to whether they are for first or second degree negligent driving; and

(C) Exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract must show the deferred prosecution as well as the removal.

(iii) Any policy of insurance may not be canceled, nonrenewed, denied, or have the rate increased on the basis of information regarding an accident included in the abstract of a driving record, unless the policyholder was determined to be at fault.

(iv) Any insurance company or its agents, for underwriting purposes relating to the operation of commercial motor vehicles, may not use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment. Any insurance company or its agents, for underwriting purposes relating to the operation of noncommercial motor vehicles, may not use any information contained in the abstract relative to

any person's operation of commercial motor vehicles. For the purposes of this subsection, "commercial motor vehicle" has the same meaning as in RCW 46.25.010(6).

~~((*) The director may enter into a contractual agreement with an insurance company or its agent for the limited purpose of reviewing the driving records of existing policyholders for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.))~~

(f) **Alcohol/drug assessment or treatment agencies.** An abstract of the driving record maintained by the department covering the period of not more than the last five years may be furnished to an alcohol/drug assessment or treatment agency approved by the department of ~~((social and))~~ health ~~((services))~~ to which the named individual has applied or been assigned for evaluation or treatment, for purposes of assisting employees in making a determination as to what level of treatment, if any, is appropriate, except that the abstract must:

(i) Also include records of alcohol-related offenses, as defined in RCW 46.01.260(2), covering a period of not more than the last ten years; and

(ii) Indicate whether an alcohol-related offense was originally charged as a violation of either RCW 46.61.502 or 46.61.504.

(g) **Attorneys—City attorneys, county prosecuting attorneys, and named individual's attorney of record.** An abstract of the full driving record maintained by the department, including whether a recorded violation is an alcohol-related offense, as defined in RCW 46.01.260(2), that was originally charged as a violation of either RCW 46.61.502 or 46.61.504, may be furnished to city attorneys, county prosecuting attorneys, or the named individual's attorney of record. City attorneys, county prosecuting attorneys, or the named individual's attorney of record may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment.

(h) **State colleges, universities, or agencies, or units of local government.** An abstract of the full driving record maintained by the department may be furnished to (i) state colleges, universities, or agencies for employment and risk management purposes or (ii) units of local government authorized to self-insure under RCW 48.62.031, or their agents, for employment and risk management purposes. ~~((The director may enter into a contractual agreement with a unit of local government, or its agent, for the purpose of reviewing the driving records of existing employees for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that will not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.))~~ "Unit of local government" includes an insurance pool established under RCW 48.62.031.

(i) **Superintendent of public instruction.** (i) An abstract of the full driving record maintained by the department may be furnished to the superintendent of public instruction for review of public school bus driver records. The superintendent or superintendent's designee may discuss information on the driving record with an authorized representative of the employing school district for employment and risk management purposes.

(ii) The superintendent of public instruction is exempt from paying the fees related to the reviewing of records and the fee required in subsection (5) of this section.

(j) State and federal agencies. An abstract of the driving record maintained by the department may be furnished to state and federal agencies, or their agents, in carrying out its functions.

(k) Transportation network companies. An abstract of the full driving record maintained by the department may be furnished to a transportation network company or its agents acting on its behalf of the named individual for purposes related to driving by the individual as a condition of being a contracted driver.

(l) Research. (i) The department may furnish driving record data to state agencies and bona fide scientific research organizations. The department may require review and approval by an institutional review board. For the purposes of this subsection, "research" means a planned and systematic sociological, psychological, epidemiological, biomedical, or other scientific investigation carried out by a state agency, or by a scientific research professional associated with a bona fide scientific research organization with an objective to contribute to scientific knowledge, the solution of social and health problems, or the evaluation of public benefit and service programs. This definition excludes methods of record analysis and data collection that are subjective, do not permit replication, and are not designed to yield reliable and valid results.

(ii) The state agency, or a scientific research professional associated with a bona fide scientific research organization, are exempt from paying the fees related to the reviewing of records and the fee required in subsection (5) of this section. However, the department may charge a cost-recovery fee for the actual cost of providing the data.

(3) Reviewing of driving records. (a) In addition to the methods described herein, the director may enter into a contractual agreement for the purpose of reviewing the driving records of existing employees for changes to the record during specified periods of time. The department shall establish a fee for this service, which must be deposited in the highway safety fund. The fee for this service must be set at a level that does not result in a net revenue loss to the state. Any information provided under this subsection must be treated in the same manner and is subject to the same restrictions as driving record abstracts.

(b) The department may provide reviewing services to the following entities:

(i) Employers for existing employees, or their agents;

(ii) Transit authorities for current vanpool drivers, or their agents;

(iii) Insurance carriers for current policyholders, or their agents;

(iv) State colleges, universities, or agencies, or units of local government, or their agents;

(v) The office of the superintendent of public instruction for school bus drivers statewide; and

(vi) Transportation network companies, or their agents.

(4) Release to third parties prohibited. (a) Any person or entity receiving an abstract of a person's driving record under subsection (2)(b) through ~~((4))~~ (1) of this section shall use the abstract exclusively for his, her, or its own purposes or as otherwise expressly permitted under this section, and shall not divulge any information contained in the abstract to a third party.

(b) The following release of records to third parties are hereby authorized:

(i) Employers may divulge driving records to regulatory bodies, as defined by the department by rule, such as the United States department of transportation and the federal motor carrier safety administration.

(ii) Employers may divulge a three-year driving record to their insurance carrier for underwriting purposes.

(iii) Employers may divulge driving records to contracted motor carrier consultants for the purposes of ensuring driver compliance and risk management.

~~((4))~~ **(5) Fee.** The director shall collect a thirteen dollar fee for each abstract of a person's driving record furnished by the department. Fifty percent of the fee must be deposited in the highway safety fund, and fifty percent of the fee must be deposited according to RCW 46.68.038.

~~((5))~~ **(6) Violation.** (a) Any negligent violation of this section is a gross misdemeanor.

(b) Any intentional violation of this section is a class C felony.

~~((6))~~ **(7)** Effective July 1, 2019, the contents of a driving abstract pursuant to this section shall not include any information related to sealed juvenile records unless that information is required by federal law or regulation.

NEW SECTION. Sec. 9. Section 4 of this act constitutes a new chapter in Title 46 RCW.

Passed by the Senate March 3, 2021.

Passed by the House April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 94

[Substitute Senate Bill 5169]

HEALTH PROVIDERS—PERSONAL PROTECTIVE EQUIPMENT REIMBURSEMENT— COVID-19

AN ACT Relating to provider reimbursement for personal protective equipment during the state of emergency related to COVID-19; adding a new section to chapter 48.43 RCW; creating new sections; providing a contingent expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) The legislature finds that:

(a) The delivery of health care services is essential and maintaining patient safety during the ongoing public health emergency is paramount;

(b) Pursuant to state and federal regulations, and in the interest of minimizing the risk of viral transmission, health care providers have incurred

substantially increased costs during the public health emergency associated with the procurement of personal protective equipment;

(c) Costs associated with providing care are typically factored into contracts between a health carrier and a health care provider, but the dramatically increased personal protective equipment costs related to the pandemic, in terms of procurement and increased "per unit" costs, were neither foreseeable nor contemplated in existing contracts; and

(d) Health care providers do not want to bill patients directly for costs associated with personal protective equipment, and in many cases are precluded from doing so pursuant to terms of contract between health care providers and health carriers, so many health care providers currently do not have a mechanism to recoup costs of personal protective equipment.

(2) Therefore, the legislature finds that to help ensure patient safety and continued access to personal protective equipment, it is necessary that health carriers reimburse health care providers for costs associated with personal protective equipment.

NEW SECTION. Sec. 2. A new section is added to chapter 48.43 RCW to read as follows:

(1) For the duration of the federal public health emergency related to COVID-19, a health benefit plan shall reimburse a health care provider who bills for incurred personal protective equipment expenses as a separate expense, using the American medical association's current procedural terminology code 99072 or as subsequently amended, \$6.57 for each individual patient encounter.

(2) For purposes of this section, cost sharing is limited to the covered service according to the terms and conditions of the health benefit plan and does not apply to an expense for personal protective equipment.

(3) This section is not intended to apply to health care services that are not provided in person.

NEW SECTION. Sec. 3. This act applies prospectively for the duration of the state of emergency related to COVID-19.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 5. Section 2 of this act expires upon the termination of the federal public health emergency related to COVID-19 as proclaimed by the United States department of health and human services.

Passed by the Senate February 10, 2021.

Passed by the House April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 95

[Senate Bill 5184]

K-12 STUDENTS IN FOSTER CARE—BUILDING POINT OF CONTACT

AN ACT Relating to establishing a building point of contact in all K-12 public schools for students in foster care; amending RCW 28A.320.148; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature acknowledges that students in foster care often face additional challenges, both academically and emotionally. When students are connected with a caring adult, are attending school regularly, and have the supports they need, they are more likely to be successful in school and in life. Schools, child welfare agencies, communities, and families must work together to provide the equitable opportunities, specialized services, and useful supports that are essential for students in foster care. By establishing a building point of contact, the legislature intends to further support coordination of resources and facilitation of compliance with state and federal laws related to students who are dependent pursuant to chapter 13.34 RCW.

Sec. 2. RCW 28A.320.148 and 2018 c 139 s 3 are each amended to read as follows:

(1) Each school district must designate a foster care liaison to facilitate district compliance with state and federal laws related to students ~~((in out of home care))~~ who are dependent pursuant to chapter 13.34 RCW and to collaborate with the department of children, youth, and families to address educational barriers for these students. The role and responsibilities of a foster care liaison may include:

(a) Coordinating with the department of children, youth, and families on the implementation of state and federal laws related to students ~~((in out of home care))~~ who are dependent pursuant to chapter 13.34 RCW;

(b) Coordinating with foster care education program staff at the office of the superintendent of public instruction;

(c) Attending training and professional development opportunities to improve school district implementation efforts;

(d) Serving as the primary contact person for representatives of the department of children, youth, and families;

(e) Leading and documenting the development of a process for making best interest determinations in accordance with RCW 28A.225.350;

(f) Facilitating immediate enrollment in accordance with RCW 28A.225.330;

(g) Facilitating the transfer of records in accordance with RCW 28A.150.510 and 28A.225.330;

(h) Facilitating data sharing with child welfare agencies consistent with state and federal privacy laws and rules;

(i) Developing and coordinating local transportation procedures;

(j) Managing best interest determination and transportation cost disputes according to the best practices developed by the office of the superintendent of public instruction;

(k) Ensuring that students ~~((in out of home care))~~ who are dependent pursuant to chapter 13.34 RCW are enrolled in and regularly attending school, consistent with RCW 28A.225.023; and

(l) Providing professional development and training to school staff on state and federal laws related to students ~~((in out of home care))~~ who are dependent pursuant to chapter 13.34 RCW and their educational needs, as needed.

(2) ~~((For the purposes of this section, "out of home care" has the same meaning as in RCW 13.34.030.))~~ Each K-12 public school in the state must

establish a building point of contact in each elementary school, middle school, and high school. These points of contact must be appointed by the principal of the designated school, in consultation with the district foster care liaison, and are responsible for coordinating services and resources for students in foster care as outlined in subsection (1) of this section.

(3) The district foster care liaison is responsible for training building points of contact.

(4) The office of the superintendent of public instruction shall make available best practices for choosing and training building points of contact to each school district.

Passed by the Senate February 3, 2021.

Passed by the House April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 96

[Substitute Senate Bill 5228]

MEDICAL SCHOOLS—HEALTH EQUITY

AN ACT Relating to addressing disproportionate health outcomes by building a foundation of equity in medical training; adding new sections to chapter 28B.10 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 inequities in health outcomes exist in the state of Washington and that future generations of health care professionals have an important role to play in mitigating these disparate outcomes. Because the schools of medicine at the University of Washington and Washington State University are tasked with the formative role of educating medical professionals, the legislature sees fit to ensure students leaving these institutions are prepared to care effectively for the people of diverse cultures, groups, and communities that will become their patients. By equipping them with the tools to serve diverse communities around our state and our nation, students of medicine will become practitioners of medicine with the knowledge, attitudes, and skills to understand and counteract racism and implicit bias in health care. The purpose of this act is to serve medical students, medical professionals, and patients in communities in which these professionals work, and to undo structural racism in the systems through which they navigate. To that end, this act establishes opportunities for education that provide tools to students of medicine to build a better, more equitable health care system.

NEW SECTION. Sec. 2. A new section is added to chapter 28B.10 RCW to read as follows:

(1) Within existing resources, by January 1, 2023, the school of medicine at the University of Washington, established under chapter 28B.20 RCW, and the school of medicine at Washington State University, established under chapter 28B.30 RCW, shall each develop curriculum on health equity for medical students. The curriculum must teach attitudes, knowledge, and skills that enable students to care effectively for patients from diverse cultures, groups, and communities. The objectives of the curriculum must be to provide tools for eliminating structural racism in health care systems and to build cultural safety.

A person may not graduate with a degree from either medical school without completing a course, or courses, that include curriculum on health equity for medical students.

(2) Course topics on health equity may include, but are not limited to:

(a) Strategies for recognizing patterns of health care disparities and eliminating factors that influence them;

(b) Intercultural communication skills training, including how to work effectively with an interpreter and how communication styles differ across cultures;

(c) Historical examples of medical and public health racism and how racism may manifest itself in a student's field of medicine;

(d) Cultural safety training that requires examination of each student's culture and potential impacts on clinical interactions and health care service delivery;

(e) Structural competency training that gives attention to forces influencing health outcomes at levels above individual interactions;

(f) Methods of evaluating health care systems; and

(g) Implicit bias training to identify strategies to reduce bias during assessment and diagnosis.

NEW SECTION. Sec. 3. A new section is added to chapter 28B.10 RCW to read as follows:

(1) Within existing resources, by January 1, 2022, the school of medicine at the University of Washington, established under chapter 28B.20 RCW, and the school of medicine at Washington State University, established under chapter 28B.30 RCW, shall each develop a goal focused on increasing the number of underrepresented students at each school of medicine, guided by the state of Washington's need for physicians from diverse racial and ethnic backgrounds and each school's predominant equity goals. In developing the goal, special consideration may be given to students attending the school of medicine at the University of Washington as a part of a regional partnership with other states. Each initial goal shall be set for January 1, 2025.

(2) The school of medicine at the University of Washington and the school of medicine at Washington State University shall report progress towards their goal on an annual basis through their public websites.

Passed by the Senate February 26, 2021.

Passed by the House April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 97

[Engrossed Substitute Senate Bill 5284]

PERSONS WITH DISABILITIES—SUBMINIMUM WAGE CERTIFICATES

AN ACT Relating to eliminating subminimum wage certificates for persons with disabilities; amending RCW 49.12.110, 49.46.060, and 49.46.170; adding a new section to chapter 71A.10 RCW; creating a new section; and providing an expiration date.

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

Sec. 1. RCW 49.12.110 and 2020 c 274 s 40 are each amended to read as follows:

~~((For))~~ Subject to RCW 49.46.170, for any occupation in which a minimum wage has been established, the director may issue to an employer, a special certificate or permit for an employee with a disability to such a degree that ((he or she)) the employee is unable to obtain employment in the competitive labor market, or to a trainee or learner not otherwise subject to the jurisdiction of the apprenticeship council, a special certificate or permit authorizing the employment of such employee for a wage less than the legal minimum wage; and the director shall fix the minimum wage for said person, such special certificate or permit to be issued only in such cases as the director may decide the same is applied for in good faith and that such certificate or permit shall be in force for such length of time as the director shall decide and determine is proper.

Sec. 2. RCW 49.46.060 and 1959 c 294 s 6 are each amended to read as follows:

~~((The))~~ Subject to RCW 49.46.170, the director, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations provide for (1) the employment of learners, of apprentices, and of messengers employed primarily in delivering letters and messages, under special certificates issued pursuant to regulations of the director, at such wages lower than the minimum wage applicable under RCW 49.46.020 and subject to such limitations as to time, number, proportion, and length of service as the director shall prescribe, and (2) the employment of individuals whose earning capacity is impaired by ~~((age or physical or mental deficiency or injury))~~ a disability, under special certificates issued by the director, at such wages lower than the minimum wage applicable under RCW 49.46.020 and for such period as shall be fixed in such certificates.

Sec. 3. RCW 49.46.170 and 2019 c 374 s 1 are each amended to read as follows:

(1) Beginning July 1, 2020, no state agency may employ an individual to work under a special certificate issued under RCW 49.12.110 and 49.46.060 for the employment of individuals with disabilities at less than the minimum wage. Any special certificate issued by the director to a state agency for the employment of an individual with a disability at less than minimum wage must expire by June 30, 2020. For the purposes of this section, "state agency" means any office, department, commission, or other unit of state government.

(2) After July 31, 2023, the director may not issue any new special certificates under RCW 49.12.110 and 49.46.060 for the employment, at less than the minimum wage, of individuals with disabilities.

(3)(a) Special certificates that have not expired as of July 31, 2023, remain valid until the certificate expires.

(b) The director may extend, no more than once and for no longer than one year, the duration of a special certificate that was valid as of the effective date of this section only under the following circumstances:

(i) The individual employed under the special certificate is an "eligible person" as defined under RCW 71A.10.020; and

(ii) The employer requests the extension of the special certificate.

(4) Ninety days before the expiration of the special certificates under this section, the director shall provide written notice to the employer, the employee, and the employee's legal guardian, legal representative as defined under RCW 71A.10.020, or other individual authorized to receive information on behalf of the employee, of the following:

(a) The expiration date of the special certificate;

(b) The employer's option to extend the special certificate if the conditions under subsection (3) of this section are met; and

(c) Upon request, the contact information for the department of social and health services and a statement that provides the supportive services available to the individual with disabilities.

(5) For the purposes of allowing the department of social and health services to prioritize services and existing individualized technical assistance to individuals advancing to at least minimum wage employment, the department of labor and industries may share information, such as individuals' contact information and expiration dates of special certificates with the department of social and health services.

NEW SECTION. Sec. 4. A new section is added to chapter 71A.10 RCW to read as follows:

(1) To the extent consistent with federal law and federal funding requirements, the department must prioritize individuals, utilizing the expiration dates of the special certificates, for the provision of individual technical assistance to an individual, prior to the expiration date of the individual's special certificate, and may utilize the individual technical assistance to allow for an effective transition into at least minimum wage employment or other services.

(2) Subject to the availability of amounts appropriated for this specific purpose, the department must work with contracted providers to expand employment and day services to individuals leaving special certificate employment, including but not limited to providing individual technical assistance and individual supported employment services to individuals leaving special certificate employment.

(3) Prior to the expiration date of the individual's special certificate, the department must provide written and verbal notification to the individual and their legal representatives informing them of all available waiver services and the processes for the individual to identify, transition to, and request any of the available waiver services.

NEW SECTION. Sec. 5. (1) By October 1, 2021, the department of labor and industries, in collaboration with the department of social and health services' developmental disabilities administration and division of vocational rehabilitation, must submit a report to the appropriate committees of the legislature with the following information:

(a) The number of special certificates remaining;

(b) The number of individuals who were employed under a special certificate who have contacted the department of social and health services to receive individual technical assistance and other services provided by the department of social and health services' developmental disabilities administration or division of vocational rehabilitation and the assistance and services that were provided; and

(c) The number of individuals who continued to be employed after the expiration of the individual's special certificate, a description of employment or other services, including services under chapter 71A.12 RCW, if any, that were provided to those individuals, and other services provided by the department of social and health services' developmental disabilities administration or division of vocational rehabilitation and the assistance and services that were provided.

(2) The report must be provided annually until all remaining special certificates have expired.

(3) This section expires December 1, 2024.

Passed by the Senate February 18, 2021.

Passed by the House April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 98

[Senate Bill 5296]

WASHINGTON STATE PATROL RETIREMENT SYSTEM—CONSUMER PRICE INDEX DEFINITION

AN ACT Relating to the definition of index for the Washington state patrol retirement system; and reenacting and amending RCW 43.43.260.

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

Sec. 1. RCW 43.43.260 and 2009 c 522 s 2 and 2009 c 205 s 9 are each reenacted and amended to read as follows:

Upon retirement from service as provided in RCW 43.43.250, a member shall be granted a retirement allowance which shall consist of:

(1) A prior service allowance which shall be equal to two percent of the member's average final salary multiplied by the number of years of prior service rendered by the member.

(2) A current service allowance which shall be equal to two percent of the member's average final salary multiplied by the number of years of service rendered while a member of the retirement system.

(3)(a) Any member commissioned prior to January 1, 2003, with twenty-five years service in the Washington state patrol may have the member's service in the uniformed services credited as a member whether or not the individual left the employ of the Washington state patrol to enter such uniformed services: PROVIDED, That in no instance shall military service in excess of five years be credited: AND PROVIDED FURTHER, That in each instance, a member must restore all withdrawn accumulated contributions, which restoration must be completed on the date of the member's retirement, or as provided under RCW 43.43.130, whichever occurs first: AND PROVIDED FURTHER, That this section shall not apply to any individual, not a veteran within the meaning of RCW 41.06.150.

(b) A member who leaves the Washington state patrol to enter the uniformed services of the United States shall be entitled to retirement system service credit for up to five years of military service. This subsection shall be administered in a manner consistent with the requirements of the federal uniformed services employment and reemployment rights act.

(i) The member qualifies for service credit under this subsection if:

(A) Within ninety days of the member's honorable discharge from the uniformed services of the United States, the member applies for reemployment with the employer who employed the member immediately prior to the member entering the uniformed services; and

(B) The member makes the employee contributions required under RCW 41.45.0631 and 41.45.067 within five years of resumption of service or prior to retirement, whichever comes sooner; or

(C) Prior to retirement and not within ninety days of the member's honorable discharge or five years of resumption of service the member pays the amount required under RCW 41.50.165(2); or

(D) If the member was commissioned on or after January 1, 2003, and, prior to retirement, the member provides to the director proof that the member's interruptive military service was during a period of war as defined in RCW 41.04.005. Any member who made payments for service credit for interruptive military service during a period of war as defined in RCW 41.04.005 may, prior to retirement and on a form provided by the department, request a refund of the funds standing to his or her credit for up to five years of such service, and this amount shall be paid to him or her. Members with one or more periods of interruptive military service credit during a period of war may receive no more than five years of free retirement system service credit under this subsection.

(ii) Upon receipt of member contributions under (b)(i)(B), (b)(iv)(C), and (b)(v)(C) of this subsection, or adequate proof under (b)(i)(D), (b)(iv)(D), or (b)(v)(D) of this subsection, the department shall establish the member's service credit and shall bill the employer for its contribution required under RCW 41.45.060 for the period of military service, plus interest as determined by the department.

(iii) The contributions required under (b)(i)(B), (b)(iv)(C), and (b)(v)(C) of this subsection shall be based on the compensation the member would have earned if not on leave, or if that cannot be estimated with reasonable certainty, the compensation reported for the member in the year prior to when the member went on military leave.

(iv) The surviving spouse or lawful domestic partner or eligible child or children of a member who left the employ of an employer to enter the uniformed services of the United States and died while serving in the uniformed services may, on behalf of the deceased member, apply for retirement system service credit under this subsection up to the date of the member's death in the uniformed services. The department shall establish the deceased member's service credit if the surviving spouse or lawful domestic partner or eligible child or children:

(A) Provides to the director proof of the member's death while serving in the uniformed services;

(B) Provides to the director proof of the member's honorable service in the uniformed services prior to the date of death; and

(C) If the member was commissioned on or after January 1, 2003, pays the employee contributions required under chapter 41.45 RCW within five years of the date of death or prior to the distribution of any benefit, whichever comes first; or

(D) If the member was commissioned on or after January 1, 2003, and, prior to the distribution of any benefit, provides to the director proof that the member's interruptive military service was during a period of war as defined in RCW 41.04.005. If the deceased member made payments for service credit for interruptive military service during a period of war as defined in RCW 41.04.005, the surviving spouse or eligible child or children may, prior to the distribution of any benefit and on a form provided by the department, request a refund of the funds standing to the deceased member's credit for up to five years of such service, and this amount shall be paid to the surviving spouse or children. Members with one or more periods of interruptive military service during a period of war may receive no more than five years of free retirement system service credit under this subsection.

(v) A member who leaves the employ of an employer to enter the uniformed services of the United States and becomes totally incapacitated for continued employment by an employer while serving in the uniformed services is entitled to retirement system service credit under this subsection up to the date of discharge from the uniformed services if:

(A) The member obtains a determination from the director that he or she is totally incapacitated for continued employment due to conditions or events that occurred while serving in the uniformed services;

(B) The member provides to the director proof of honorable discharge from the uniformed services; and

(C) If the member was commissioned on or after January 1, 2003, the member pays the employee contributions required under chapter 41.45 RCW within five years of the director's determination of total disability or prior to the distribution of any benefit, whichever comes first; or

(D) If the member was commissioned on or after January 1, 2003, and, prior to retirement, the member provides to the director proof that the member's interruptive military service was during a period of war as defined in RCW 41.04.005. Any member who made payments for service credit for interruptive military service during a period of war as defined in RCW 41.04.005 may, prior to retirement and on a form provided by the department, request a refund of the funds standing to his or her credit for up to five years of such service, and this amount shall be paid to him or her. Members with one or more periods of interruptive military service during a period of war may receive no more than five years of free retirement system service credit under this subsection.

(4) In no event shall the total retirement benefits from subsections (1), (2), and (3) of this section, of any member exceed seventy-five percent of the member's average final salary.

(5) Beginning July 1, 2001, and every year thereafter, the department shall determine the following information for each retired member or beneficiary whose retirement allowance has been in effect for at least one year:

(a) The original dollar amount of the retirement allowance;

(b) The index for the calendar year prior to the effective date of the retirement allowance, to be known as "index A";

(c) The index for the calendar year prior to the date of determination, to be known as "index B"; and

(d) The ratio obtained when index B is divided by index A.

The value of the ratio obtained shall be the annual adjustment to the original retirement allowance and shall be applied beginning with the July payment. In no event, however, shall the annual adjustment:

- (i) Produce a retirement allowance which is lower than the original retirement allowance;
- (ii) Exceed three percent in the initial annual adjustment; or
- (iii) Differ from the previous year's annual adjustment by more than three percent.

For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index for the Seattle(~~Tacoma-Bremerton~~), Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

The provisions of this section shall apply to all members presently retired and to all members who shall retire in the future.

Passed by the Senate February 23, 2021.

Passed by the House April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 99

[Senate Bill 5303]

FOOD AND DRUG ADMINISTRATION NONPUBLIC INFORMATION—PUBLIC RECORDS ACT EXEMPTION

AN ACT Relating to exempting United States food and drug administration nonpublic information from disclosure under the state public disclosure act; and amending RCW 42.56.380.

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

Sec. 1. RCW 42.56.380 and 2019 c 337 s 3 are each amended to read as follows:

The following information relating to agriculture and livestock is exempt from disclosure under this chapter:

- (1) Business-related information under RCW 15.86.110;
- (2) Information provided under RCW 15.54.362;
- (3) Production or sales records required to determine assessment levels and actual assessment payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.115, 15.100, 15.89, and 16.67 RCW or required by the department of agriculture to administer these chapters or the department's programs;
- (4) Consignment information contained on phytosanitary certificates issued by the department of agriculture under chapters 15.13, 15.49, and 15.17 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States department of agriculture, or on applications for phytosanitary certification required by the department of agriculture;
- (5) Financial and commercial information and records supplied by persons
 - (a) to the department of agriculture for the purpose of conducting a referendum for the potential establishment of a commodity board or commission; or
 - (b) to the department of agriculture or commodity boards or commissions formed

under chapter 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.115, 15.100, 15.89, or 16.67 RCW with respect to domestic or export marketing activities or individual producer's production information;

(6) Information obtained regarding the purchases, sales, or production of an individual American ginseng grower or dealer, except for providing reports to the United States fish and wildlife service under RCW 15.19.080;

(7) Information collected regarding packers and shippers of fruits and vegetables for the issuance of certificates of compliance under RCW 15.17.140(2) and 15.17.143;

(8) Financial statements obtained under RCW 16.65.030(1)(d) for the purposes of determining whether or not the applicant meets the minimum net worth requirements to construct or operate a public livestock market;

(9) Information submitted by an individual or business to the department of agriculture under the requirements of chapters 16.36, 16.57, and 43.23 RCW for the purpose of herd inventory management for animal disease traceability. This information includes animal ownership, numbers of animals, locations, contact information, movements of livestock, financial information, the purchase and sale of livestock, account numbers or unique identifiers issued by government to private entities, and information related to livestock disease or injury that would identify an animal, a person, or location. Disclosure to local, state, and federal officials is not public disclosure. This exemption does not affect the disclosure of information used in reportable animal health investigations under chapter 16.36 RCW once they are complete;

(10) Results of testing for animal diseases from samples submitted by or at the direction of the animal owner or his or her designee that can be identified to a particular business or individual;

(11) Records of international livestock importation that can be identified to a particular animal, business, or individual received from the United States department of homeland security or the United States department of agriculture that are not disclosable by the federal agency under federal law including 5 U.S.C. Sec. 552;

(12) Records related to the entry of prohibited agricultural products imported into Washington state or that had Washington state as a final destination received from the United States department of homeland security or the United States department of agriculture that are not disclosable by the federal agency under federal law including 5 U.S.C. Sec. 552;

(13) Information obtained from the federal government or others under contract with the federal government or records obtained by the department of agriculture, in accordance with RCW 15.135.100;

(14) Hop grower lot numbers and laboratory results associated with the hop grower lot numbers where this information is used by the department of agriculture to issue export documents; (~~and~~)

(15) Information or records obtained pursuant to a food and drug administration contract or commissioning agreement, in accordance with RCW 15.130.150; and

(16) The following information or records obtained from the federal food and drug administration by the public health laboratories within the department of health pursuant to a contract or agreement entered into for the purpose of obtaining funding for monitoring food supplies for harmful contaminants, to the

extent it is exempt from disclosure under 5 U.S.C. Sec. 552, the federal freedom of information act; Trade secrets; confidential commercial information; information under the federal deliberative process privilege; information compiled for law enforcement purposes; and information expressly required to be kept confidential by other federal laws.

Passed by the Senate February 23, 2021.

Passed by the House April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 100

[Substitute Senate Bill 5325]

BEHAVIORAL HEALTH TELEMEDICINE REIMBURSEMENT—AGE LIMITATION

AN ACT Relating to telemedicine; and amending RCW 71.24.335.

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

Sec. 1. RCW 71.24.335 and 2019 c 325 s 1019 are each amended to read as follows:

(1) Upon initiation or renewal of a contract with the authority, behavioral health administrative services organizations and managed care organizations shall reimburse a provider for a behavioral health service provided to a covered person (~~(who is under eighteen years old)~~) through telemedicine or store and forward technology if:

(a) The behavioral health administrative services organization or managed care organization in which the covered person is enrolled provides coverage of the behavioral health service when provided in person by the provider; and

(b) The behavioral health service is medically necessary.

(2)(a) If the service is provided through store and forward technology there must be an associated visit between the covered person and the referring provider. Nothing in this section prohibits the use of telemedicine for the associated office visit.

(b) For purposes of this section, reimbursement of store and forward technology is available only for those services specified in the negotiated agreement between the behavioral health administrative services organization, or managed care organization, and the provider.

(3) An originating site for a telemedicine behavioral health service subject to subsection (1) of this section means an originating site as defined in rule by the department or the health care authority.

(4) Any originating site, other than a home, under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement must be subject to a negotiated agreement between the originating site and the behavioral health administrative services organization, or managed care organization, as applicable. A distant site or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) Behavioral health administrative services organizations and managed care organizations may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) Behavioral health administrative services organizations and managed care organizations may subject coverage of a telemedicine or store and forward technology behavioral health service under subsection (1) of this section to all terms and conditions of the behavioral health administrative services organization or managed care organization in which the covered person is enrolled, including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable behavioral health care service provided in person.

(7) This section does not require a behavioral health administrative services organization or a managed care organization to reimburse:

- (a) An originating site for professional fees;
 - (b) A provider for a behavioral health service that is not a covered benefit;
- or
- (c) An originating site or provider when the site or provider is not a contracted provider.

(8) For purposes of this section:

(a) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(b) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

(c) "Originating site" means the physical location of a patient receiving behavioral health services through telemedicine;

(d) "Provider" has the same meaning as in RCW 48.43.005;

(e) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical or behavioral health information from an originating site to the provider at a distant site which results in medical or behavioral health diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(f) "Telemedicine" means the delivery of health care or behavioral health services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" does not include the use of audio-only telephone, facsimile, or email.

(9) The authority must adopt rules as necessary to implement the provisions of this section.

Passed by the Senate February 26, 2021.

Passed by the House April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 101

[Senate Bill 5347]

COOPERATIVE ASSOCIATIONS—ELECTRONIC VOTING

AN ACT Relating to member voting methods; and amending RCW 23.86.115.

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

Sec. 1. RCW 23.86.115 and 1989 c 307 s 21 are each amended to read as follows:

(1) The right of a member to vote may be limited, enlarged, or denied to the extent specified in the articles of incorporation or bylaws. Unless so limited, enlarged, or denied, each member shall be entitled to one vote on each matter submitted to a vote of members. The bylaws may allow subscribers to vote as members if one-fifth of the subscription for the membership fee or capital stock has been paid.

(2) A member may vote in person or, unless the articles of incorporation or the bylaws otherwise provide, may vote by mail, by electronic transmission, or by proxy executed in writing by the member or by a duly authorized attorney-in-fact. No proxy shall be valid for more than (~~eleven~~) 11 months from the date of its execution unless otherwise specified in the proxy. Votes by mail or by proxy shall be made by mail ballot or proxy form prepared and distributed by the association in accordance with procedures set forth in the articles of incorporation or bylaws. Persons voting by mail or by electronic transmission shall be deemed present for all purposes of quorum, count of votes, and percentage voting of total voting power.

(3) If the articles of incorporation or bylaws provide for more or less than one vote per member on any matter, every reference in this chapter to a majority or other proportion of members shall refer to such a majority or other proportion of votes entitled to be cast by members.

Passed by the Senate February 16, 2021.

Passed by the House April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 102

[Engrossed Substitute Senate Bill 5355]

WAGE LIENS

AN ACT Relating to establishing wage liens; amending RCW 36.18.016 and 49.48.086; adding new sections to chapter 43.24 RCW; adding a new chapter to Title 60 RCW; and providing an effective date.

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

NEW SECTION. **Sec. 1.** This act may be known and cited as the Washington wage recovery act.

NEW SECTION. **Sec. 2.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Account" has the same meaning as defined in RCW 62A.9A-102.

(2) "Chattel paper" has the same meaning as defined in RCW 62A.9A-102.

(3) "Department" means the department of labor and industries.

(4) "Director" means the director of labor and industries.

(5) "Employ" includes permit to work.

(6) "Employee" includes any individual currently or formerly employed by an employer.

(7) "Employer" includes any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee.

(8) "Goods" has the same meaning as defined in RCW 62A.9A-102.

(9) "Highly compensated employee" means any employee who was a five percent owner of the business at which he or she is employed during the current year or preceding year, or who received compensation from the employer in the preceding year in excess of the indexed compensation pursuant to 26 U.S.C. Sec. 414(q).

(10) "Instrument" has the same meaning as defined in RCW 62A.9A-102.

(11) "Maintain" includes to maintain, clean, manage, improve, protect, repair, monitor, or restore real property at the instance of the owner or tenant or of any person acting by the owner's or tenant's authority.

(12) "Payment intangibles" has the same meaning as defined in RCW 62A.9A-102.

(13) "Signature" includes an electronic signature.

(14) "Wage claim" means a claim for any unpaid wages owed to the claimant as an employee of an employer, as well as any other compensation, interest, statutory damages, liquidated damages, attorneys' fees and costs, or statutory penalties that may be owed for violation of a local, state, or federal wage law, including but not limited to chapters 39.12, 49.12, 49.46, 49.48, and 49.52 RCW, and the fair labor standards act, 29 U.S.C. Sec. 201 et seq. A wage claim does not include vacation or severance pay, contributions to an employee benefit plan, or paid leave except paid leave that is statutorily mandated.

NEW SECTION. Sec. 3. (1)(a) An employee, except a highly compensated employee, who complies with section 4 of this act has a wage lien for wage claims on:

(i) Any real property in the state of Washington that is owned or subsequently acquired by the employee's employer;

(ii) Goods and tangible chattel paper in the state of Washington that are owned or are subsequently acquired by the employee's employer;

(iii) Accounts and payment intangibles that are owned or subsequently acquired by the employee's employer; and

(iv) Any real property in the state of Washington that the wage claimant has maintained, for all wage claims for maintenance of that property.

(b) A person does not have a wage lien under this chapter for any wage claim that is or would be subject to a lien by that person under chapter 60.04 RCW.

(c) A wage lien is effective against the estate of the employer.

(2) This chapter does not affect the ownership or title in personal or real property of the state or other public entity or public ownership, nor does any lien attach to the fee simple title of the state or other public ownership.

NEW SECTION. Sec. 4. (1) To establish a wage lien on real property pursuant to section 3 of this act, the lien claimant must:

(a) File for recording a notice of claim of wage lien in the county where the property is located that includes:

(i) The name, telephone number, and address of the lien claimant and, if the wage lien has been assigned, the name of the person who assigned the lien;

- (ii) The name of the employer;
 - (iii) The street address, legal description, and parcel number of the real property subject to the wage lien;
 - (iv) The name of the owner or reputed owner of the property, if known, and if not known, a statement saying the name of the owner is not known;
 - (v) The principal amount for which the wage lien is claimed;
 - (vi) The signature of the lien claimant or of a person authorized to act on the claimant's behalf; and
 - (vii) An acknowledgment and certification as set forth in subsection (4) of this section;
- (b) Pay a filing fee to the county auditor as required by RCW 36.18.010; and
 - (c) Mail a copy of the notice filed under this subsection (1) to the employer's registered agent, the employer's registered business address, or the address where the employer resides, and to the property owner if known and if the employer is not the property owner, by certified mail with return receipt requested.

(2) Except as provided in subsection (3) of this section, to establish a wage lien on personal property pursuant to section 3 of this act, the lien claimant must:

(a)(i)(A) For an employer located in Washington, file with the department of licensing a financing statement that satisfies the requirements of Part 5 of chapter 62A.9A RCW; or

(B) For an employer located outside Washington, file a financing statement with the office designated by section 9A-501(a)(2) of the uniform commercial code of the state in which the employer is located and pay the filing fees established by the office.

(ii) For purposes of the financing statement filings in (a)(i) of this subsection:

(A) "Debtor" means the owner of the property encumbered by the wage lien; and

(B) A description of the collateral covered by the wage lien that states that the wage lien covers all goods and tangible chattel paper located in Washington state, as well as all accounts and payment intangibles is sufficient;

(b) If filing the financing statement with the department of licensing, pay the filing fee established by the department of licensing. All receipts from fees collected under this subsection shall be deposited into the department of licensing wage lien account created under section 20 of this act. Moneys in the fund may be spent only after appropriation and may be used only to administer the wage lien filings in this subsection; and

(c) Mail a copy of the financing statement filed under this subsection and a notice of claim of wage lien to the employer's registered agent, the employer's registered business address, or the address where the employer resides, by certified mail with return receipt requested. The notice of claim of wage lien must include:

(i) The name, telephone number, and address of the lien claimant and, if the wage lien has been assigned, the name of the person who assigned the lien;

(ii) The name of the employer;

(iii) A description of the personal property subject to the wage lien or a statement that the wage lien covers all goods and tangible chattel paper located in Washington state, as well as all accounts, and payment intangibles;

(iv) The name of the owner or reputed owner of the property, if known, and if not known, a statement saying the name of the owner is not known;

(v) The principal amount for which the wage lien is claimed;

(vi) The signature of the lien claimant or of a person authorized to act on the claimant's behalf; and

(vii) An acknowledgment and certification as set forth in subsection (4) of this section.

(3)(a) Except as provided in (b) of this subsection, to establish a wage lien on goods covered by a certificate of title issued pursuant to chapter 46.12 or 88.02 RCW, the lien claimant must:

(i) File a notice of claim of wage lien with the department of licensing that includes:

(A) The name, telephone number, and address of the lien claimant and, if the wage lien has been assigned, the name of the person who assigned the lien;

(B) The name of the employer;

(C) A description of the goods subject to the wage lien, including the vehicle identification number or hull identification number of the goods;

(D) The name of the registered or legal owner or reputed owner of the property, if known, and if not known, a statement saying the name of the owner is not known;

(E) The principal amount for which the wage lien is claimed;

(F) The signature of the lien claimant or of a person authorized to act on his or her behalf; and

(G) An acknowledgment and certification as set forth in subsection (4) of this section;

(ii) Pay a filing fee to the department of licensing; and

(iii) Mail a copy of the notice filed under this subsection to the employer's registered agent, the employer's registered business address, or the address where the employer resides, by certified mail with return receipt requested.

(b) This subsection does not apply to:

(i) Goods held for sale or lease by a person, or leased by that person as lessor, if that person is in the business of selling goods of that kind; or

(ii) Vessels documented under Title 46 of the United States Code, for which Washington state title is required to be surrendered under Title 46 U.S.C. Sec. 12106.

(4) A notice of claim of wage lien, acknowledgment, and certificate that is substantially in the following form is sufficient to satisfy subsection (1)(a) of this section, provided it complies with the formatting requirements of RCW 65.04.045 (1)(a) and (b), (2), and (3). A notice of claim of wage lien, acknowledgment, and certificate that is substantially in the following form is sufficient to satisfy subsections (2)(c) and (3)(a)(i) of this section, provided it also complies with any requirements created by the department under section 19 of this act.

When Recorded Return to:

CLAIM OF WAGE LIEN

....., claimant, vs., name of person indebted to claimant:

Notice is hereby given that the claimant named below asserts a wage lien pursuant to chapter 60.--- RCW (the new chapter created in section 22 of this act). In support of this wage lien the following information is submitted:

1. NAME OF LIEN CLAIMANT:

TELEPHONE NUMBER:

ADDRESS:

2. NAME OF EMPLOYER:

3. DESCRIPTION OF THE PROPERTY AGAINST WHICH A WAGE LIEN IS CLAIMED (If real property, state the street address, legal description, and parcel number. If personal property, provide information that will reasonably describe the property, or statement that the wage lien covers all personal property. If a vehicle or vessel, the vehicle identification number or hull identification number of the vehicle or vessel):

4. NAME OF REGISTERED OR LEGAL OWNER OR REPUTED OWNER (If not known, state "Unknown")

5. PRINCIPAL AMOUNT FOR WHICH THE WAGE LIEN IS CLAIMED IS:

6. IF THE CLAIMANT IS THE ASSIGNEE OF THIS CLAIM SO STATE HERE AND STATE THE NAME OF THE ASSIGNOR:

7. IF THE PERSON SIGNING THIS CLAIM OF WAGE LIEN IS NOT THE CLAIMANT, BUT IS AUTHORIZED TO ACT ON THE CLAIMANT'S BEHALF, STATE THE PERSON'S NAME AND REPRESENTATIVE CAPACITY:

NAME:

REPRESENTATIVE CAPACITY (e.g., officer or employee of claimant; attorney or agent; representative of lien filing service; administrator, representative, or agent of trustees of employee benefit plan):

ACKNOWLEDGMENT

FOR AN ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:

STATE OF WASHINGTON, COUNTY OF

....., ss.

....., being sworn, says: I,(name of person). . . . , am the claimant. I have read the foregoing claim of wage lien, believe the claim of wage lien to be true and correct under penalty of perjury, and believe the claim of wage lien is not frivolous, is made with reasonable cause, and is not clearly excessive. The foregoing claim of wage lien is my free and voluntary act for the uses and purposes stated therein.

.....Dated:
.....
.....
.....

(Signature)

FOR AN ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY:

STATE OF WASHINGTON, COUNTY OF

....., ss.

....., being sworn, says: I, . . .(name of person). . . , am authorized to act on behalf of the claimant. I have read the foregoing claim of wage lien, believe the claim of wage lien to be true and correct under penalty of perjury, and believe the claim of wage lien is not frivolous, is made with reasonable cause, and is not clearly excessive. The foregoing claim of wage lien is the free and voluntary act of the claimant for the uses and purposes stated therein.

.....Dated:
.....
.....
.....

(Signature)

CERTIFICATE

FOR A CERTIFICATE OF ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:

I certify that I know or have satisfactory evidence that . . . (name of person) . . . is the person who appeared before me, and said person acknowledged that he/she signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

.Dated:
.
.
.

(Signature)

(Seal or stamp)

. Title
. My appointment
. Expires

FOR A CERTIFICATE OF ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY:

I certify that I know or have satisfactory evidence that . . . (name of person) . . . is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the . . . (type of authority, e.g., officer or employee, etc.) . . . of . . . (name of party on behalf of whom instrument was executed) . . . to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

.Dated:
.
.

(Signature)

(Seal or Stamp)

..... Title

..... My appointment.....

..... Expires.....

(5)(a) For a notice of claim of wage lien on real property filed under this section, the notice must comply with the recording standards in chapter 65.04 RCW and the county auditor shall record the notice in the same manner as deeds and other instruments of title are recorded under chapter 65.08 RCW. Notices of claim of wage lien for registered land need not be recorded in the Torrens register.

(b) For a notice of claim of wage lien on vehicles and vessels filed under this section, the department of licensing shall record the notice.

(6) The notice of claim of wage lien must be filed within a period of two years from when the wages were first due.

(7) Mistakes or errors in the claimed amount owed do not invalidate the wage lien unless made with the intent to defraud.

(8) A wage lien under this chapter attaches to all identifiable proceeds of the property subject to the wage lien except instruments and chattel paper.

NEW SECTION. Sec. 5. The department of licensing shall file and index the financial statement filings under section 4(2) of this act in the same systems as those filings made under RCW 62A.9A-519.

NEW SECTION. Sec. 6. Any wage lien or right of wage lien created by this chapter and the right of action to recover the wage lien is assignable so as to vest in the assignee all rights and remedies of the assignor, subject to all defenses thereto that might be made.

NEW SECTION. Sec. 7. (1) After a wage claim for which a wage lien has been recorded as to real property has been commenced in any court, but no later than eight months after the recording of the wage lien, the wage claimant or the claimant's assignee must file with the auditor of each county in which the property is situated a notice of the pendency of the wage claim, containing:

- (a) The names of the parties and assignees, if any;
- (b) The object of the action;
- (c) The abbreviated legal description and assessor parcel number of the real property located within that county; and
- (d) The name of the court where the action was filed and the cause number for the action.

(2) The county auditor must index the notice in a manner similar to the auditor practice for indexing a notice of lis pendens filed under RCW 4.28.320 or 4.28.325.

(3) The filing of the notice under subsection (1) of this section is constructive notice to every subsequent purchaser or encumbrancer, and such purchaser or encumbrancer is bound by all proceedings taken after the filing of the notice to the same extent as if he or she were a party to the action.

(4) The court in which the action was commenced may, at its discretion, at any time after the action is settled, discontinued, or abated, with notice and on a

showing of good cause, order the notice canceled, and such cancellation shall be evidenced by the recording of the court order with the county auditor.

(5) If a wage claim is filed with an administrative agency of a local government, that agency must file a notice under the provisions of this section, using a substantially similar form.

(6) If a wage claim is filed with the department, the department must file a notice under the provisions of this section, using a substantially similar form.

NEW SECTION. **Sec. 8.** (1) A wage lien may be judicially foreclosed by an action in:

(a) For real property, a superior court in any county in this state, or in United States district court for any district in the state of Washington when the action is brought by the United States department of labor;

(b) For personal property, a district court of this state if the amount of the claim does not exceed the jurisdictional limit of the district court provided in RCW 3.66.020; or

(c) For personal property, a superior court of this state if the amount of the claim exceeds the jurisdictional limit of the district court provided in RCW 3.66.020.

(2) Except as provided in subsection (4) of this section, an action to foreclose a wage lien may not be commenced more than eight months after the date the wage lien was recorded.

(3) If the claimant has instituted an action in a court of this state for the wage claim that is the subject of the wage lien, and that court is the court authorized by subsection (1) of this section to foreclose on the lien, that action shall be deemed an action to foreclose on the property subject to the lien.

(4)(a) If the claimant receives a judgment on a wage claim from a federal, state, or municipal court, the judgment, in addition to any applicable postjudgment interest, establishes the amount owed for the purposes of foreclosure under this chapter.

(b) If the claimant receives a judgment on a wage claim from a federal, state, or municipal court, that is not authorized to adjudicate the foreclosure of the claimant's wage lien, a separate action to foreclose the wage lien must be filed within 90 days of the date of that court's judgment. The entry of such a judgment shall not revive a wage lien that has been extinguished pursuant to section 10 of this act.

(5)(a) A final and binding assessment of wages owed by the department or by any local agency with authority to adjudicate wage claims, in addition to any applicable postjudgment interest, establishes the amount owed for the purposes of foreclosure under this chapter.

(b) A wage lien may also be foreclosed by:

(i) The department using the department's collection procedures under RCW 49.48.086 when the claimant has pursued a wage claim in an administrative proceeding and a final and binding citation and notice of assessment has been issued;

(ii) The claimant if a final and binding citation and notice of assessment has been issued by the department and the claimant has timely notified the department that the claimant will pursue foreclosure action on his or her own, without the department's assistance; or

(iii) An administrative agency of a local government.

(c) The foreclosure pursuant to this subsection by the claimant of a wage lien affecting real property must be commenced by the filing of an action in superior court in the county where the real property is located within 90 days of the date the department's citation and notice of assessment becomes final and binding.

(d) The extinguishment of a wage lien pursuant to section 10 of this act does not preclude the department from using the collection procedures under RCW 49.48.086.

(6) A foreclosure action may be brought by the employee individually, the department, an administrative agency of a local government, the United States department of labor, the office of the attorney general, or a representative of the employee, including a collective bargaining representative or class representative. Multiple wage claims against the same employer may be joined in a single proceeding, but the court may order separate trials or hearings.

(7) In the judgment resulting from an action to foreclose on the wage lien, the court may order the sale at sheriff's auction or the transfer to the lien claimant of title or possession of any property subject to the wage lien. Whether or not the court makes such an order as part of the judgment, a writ of sale may be issued for any property subject to the wage lien for 10 years after a judgment for a wage claim is issued. A wage lien based on an underlying judgment continues in force for an additional 10-year period if the period of execution for the underlying judgment is extended under RCW 6.17.020.

(8) In an action to foreclose on a wage lien on titled goods, the lien claimant must comply with the requirements of subsection (1) of this section and any other requirements of the department of licensing regarding transferring title and taking ownership of the vehicle or vessel.

(9) A lien claimant who prevails in a foreclosure action is entitled to costs, including the cost of recording or filing the lien and costs of title reports, and reasonable attorneys' fees.

NEW SECTION. Sec. 9. (1) A lien under this chapter may be foreclosed and enforced as provided under section 8 of this act. The court shall have the power to order the sale of the property. In any action brought to foreclose a lien, the owner shall be joined as a party. The interest in the property of any person who, prior to the commencement of the action, has a recorded interest in the property, or any part thereof, shall not be foreclosed or affected unless they are joined as a party.

(2) A person shall not begin an action to foreclose a lien upon any property while a prior action begun to foreclose another lien on the same property is pending, but if not made a party plaintiff or defendant to the prior action, he or she may apply to the court to be joined as a party thereto, and his or her lien may be foreclosed in the same action. The filing of such application shall toll the running of the period of limitation until disposition of the application or other time set by the court.

(3) The court shall grant the application for joinder unless to do so would create an undue delay or cause hardship which cannot be cured by the imposition of costs or other conditions as the court deems just.

(4) If a lien foreclosure action is filed during the pendency of another such action, the court may, on its own motion or the motion of any party, consolidate actions upon such terms and conditions as the court deems just, unless to do so

would create an undue delay or cause hardship which cannot be cured by the imposition of costs or other conditions. If consolidation of actions is not permissible under this chapter, the lien foreclosure action filed during the pendency of another such action shall not be dismissed if the filing was the result of mistake, inadvertence, surprise, excusable neglect, or irregularity. An action to foreclose a lien shall not be dismissed at the instance of a plaintiff therein to the prejudice of another party to the suit who claims a lien.

NEW SECTION. Sec. 10. (1) A wage lien is extinguished:

(a) If an action for the underlying wage claim is not brought within eight months of the date the wage lien was recorded or if the notice required by section 7 of this act was not recorded within eight months of the date the wage lien was recorded;

(b) If the action for the underlying wage claim is dismissed with prejudice and no appeal is filed within the applicable appeals period. If an appeal is filed, the wage lien continues in force until final judgment is rendered;

(c) Upon payment and acceptance of payment for the employee's wage claim; or

(d) Upon proper recording or notice of a bond meeting the requirements of section 15 of this act and, if applicable, notification of the lien claimant as required under section 15 of this act.

(2)(a) When the wage lien has been extinguished, the lien claimant shall release the lien in writing within 15 days. For liens on real property and titled goods, the lien claimant shall file a release of the wage lien at the place where the wage lien was recorded and pay a filing fee established by the agency where the notice is filed. For liens on personal property filed pursuant to section 4(2) of this act, the lien claimant shall file a termination statement of the type used pursuant to chapter 62A.9A RCW with the department of licensing and pay a filing fee established by the department.

(b) If a lien claimant fails to release the wage lien, upon demand and 15 days' notice by the employer or any affected party, mailed to the lien claimant's address as indicated on the notice of the wage lien by certified mail with return receipt requested, the employer or affected party may petition the court in which foreclosure is authorized under section 8 of this act, for an order releasing the wage lien. If no action to foreclose the lien claim has been filed, the clerk of the court shall assign a cause number to the application and obtain from the applicant a filing fee pursuant to RCW 36.18.016(18). If an action has been filed to foreclose the lien claim, the application shall be made a part of that action.

(c) If the lien claimant acted unreasonably and in bad faith in refusing to file a release of the wage lien, the employer or affected party shall be entitled to recover its attorneys' fees and costs incurred in the action, and the court in its discretion may also issue a fine not to exceed \$1,000.

(d) For liens on real property and titled goods, the release must include:

(i) The name, telephone number, address, and relationship to the wage lien of the person filing the notice;

(ii) The name, telephone number, and address of the lien claimant;

(iii) The name of the employer;

(iv) A description of the property subject to the wage lien;

(v) The amount for which the wage lien was claimed;

(vi) The signature of the lien claimant, the lien claimant's assignor, or a person authorized to act on the lien claimant's behalf;

(vii) A certified acknowledgment as set forth in subsection (4) of this section; and

(viii) The reference number of the original or amended wage lien.

(3) The person filing the release or termination statement shall mail a copy of the release or termination statement to the person against whom the lien claim was made by first-class mail within 10 days of filing the notice of release or termination.

(4)(a) A release of wage lien on real property must comply with the recording standards established in RCW 65.04.045 and the county auditor shall record the release in the same manner as deeds and other instruments of title are recorded under chapter 65.08 RCW.

(b) For liens on real property and titled goods, a release of wage lien substantially in the following form is sufficient, provided it complies with the formatting requirements of RCW 65.04.045 (1)(a) and (b), (2), and (3):

When Recorded Return to:

RELEASE OF WAGE LIEN

....., claimant, vs., name of person indebted to claimant:

Notice is hereby given that the wage lien described below is released.

1. NAME OF PERSON FILING RELEASE:

RECORDED LIEN NUMBER IF THE LIEN WAS RECORDED AGAINST REAL PROPERTY:

TELEPHONE NUMBER:

ADDRESS:

RELATIONSHIP TO WAGE LIEN (lien claimant, representative of lien claimant, assignee of lien claimant):

IF THE PERSON SIGNING THIS NOTICE IS NOT THE CLAIMANT, BUT IS AUTHORIZED TO ACT ON BEHALF OF THE CLAIMANT, STATE THE PERSON'S NAME AND REPRESENTATIVE CAPACITY (e.g., officer or employee of claimant; attorney or agent; representative of lien filing service; administrator, representative, or agent of trustees of employee benefit plan): . . .

2. NAME OF LIEN CLAIMANT:

TELEPHONE NUMBER:

ADDRESS:

3. NAME OF EMPLOYER:

4. DESCRIPTION OF THE PERSONAL PROPERTY AGAINST WHICH THE LIEN IS CLAIMED OR FOR A LIEN ON REAL PROPERTY: (1) THE REFERENCE NUMBER OF PREVIOUSLY FILED LIEN, (2) AN ABBREVIATED LEGAL DESCRIPTION OF THE PROPERTY AS DESCRIBED IN RCW 65.04.045, AND (3) THE PARCEL NUMBER OF THE REAL PROPERTY:

.....
.....
.....

5. NAME OF REGISTERED OR LEGAL OWNER OR REPUTED OWNER (If not known, state "Unknown")

.....
.....
.....

6. AMOUNT OF WAGE LIEN CLAIM:

ACKNOWLEDGMENT

FOR AN ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:

STATE OF WASHINGTON, COUNTY OF

....., SS.

....., being sworn, says: I, .. (name of person). .., am the (claimant/assignee of the claimant). I have read the foregoing release of wage lien and believe the notice to be true and correct under penalty of perjury.

.....Dated:

.....

(Signature)

FOR AN ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY:

STATE OF WASHINGTON, COUNTY OF

....., SS.

....., being sworn, says: I, ... (name of person) . . . , am authorized to act on behalf of (claimant/assignee of the claimant). I have read the foregoing release of wage lien and believe the notice to be true and correct under penalty of perjury.

.....Dated:
.....
.....

(Signature)

CERTIFICATE

FOR A CERTIFICATE OF ACKNOWLEDGMENT IN AN INDIVIDUAL CAPACITY:

I certify that I know or have satisfactory evidence that ... (name of person) . . . is the person who appeared before me, and said person acknowledged that he/she signed this instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

.....Dated:
.....
.....

(Signature)

(Seal or stamp)

..... Title
..... My appointment
..... Expires

FOR A CERTIFICATE OF ACKNOWLEDGMENT IN A REPRESENTATIVE CAPACITY:

I certify that I know or have satisfactory evidence that ... (name of person) . . . is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the ... (type of authority, e.g., officer or employee, etc.) . . . of ... (name of party on behalf of whom

instrument was executed) . . . to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

..... Dated:.....

.....

.....

(Signature)

(Seal or stamp)

..... Title

..... My appointment.....

..... Expires.....

NEW SECTION. Sec. 11. (1) Priority among wage liens recorded pursuant to this chapter is determined by date of recording. The first to be recorded has priority.

(2) A wage lien as to real property recorded pursuant to this chapter shall be prior to any security interest, lien, mortgage, deed of trust, or other encumbrance that attached to the real property after, or was unrecorded at the time, such wage lien was recorded. A wage lien as to real property recorded pursuant to this chapter shall be subject and subordinate to any prior perfected security interest, lien, mortgage, deed of trust, or other encumbrance.

(3) With respect to personal property:

(a) A security interest pursuant to Title 62A RCW has priority over a wage lien recorded pursuant to this chapter if the security interest was perfected or a financing statement covering the collateral was filed before the wage lien was recorded, provided there is no period thereafter when there is neither filing nor perfection. For the purposes of this subsection, the time of filing or perfection as to a security interest in collateral is also the time of filing or perfection as to a security interest in proceeds of the collateral.

(b)(i) A buyer of goods subject to a certificate of title that does not contain a statement that the goods are or may be subject to a wage lien takes free of a wage lien on such goods if the buyer gives value and receives delivery of the goods without knowledge of the wage lien.

(ii) A perfected security interest in goods subject to a certificate of title that does not contain a statement that the goods are or may be subject to a wage lien has priority over a wage lien on such goods.

(4)(a) A wage lien is not effective against:

(i) With respect to goods:

(A) A buyer in ordinary course of business, as defined in RCW 62A.1-201(b)(9); or

(B) A buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security

interest, even if perfected, if the buyer buys without knowledge of the security interest, for value, primarily for the buyer's personal, family, or household purposes; and before the filing of the wage lien covering the goods;

(ii) Third persons who, prior to the filing of the wage lien notice required under this chapter, acquired title in good faith, for value and without actual notice of the wage lien, to property other than goods; or

(iii) The interest in real property of any person, who, prior to the filing of the wage lien notice required under this chapter, was a grantee under a recorded instrument conveying such interest, provided such person acquired the interest in good faith, for value, and without actual notice of the wage lien.

(b) A wage lien that is not effective against any person pursuant to this subsection is ineffective against the heirs, successors, or assigns of such person.

NEW SECTION. Sec. 12. A contract between an employer and employee may not waive or require an employee to waive the right to a wage lien under this chapter. A provision of a contract made in violation of this section is void as against the public policy of this state.

NEW SECTION. Sec. 13. The claim of wage lien, when filed as required by this chapter, constitutes notice to the spouse or the domestic partner of the person who appears on record to be the owner of the property sought to be charged with the wage lien, and subjects all the community interest of both spouses or both domestic partners to the wage lien.

NEW SECTION. Sec. 14. (1) Any owner of real or personal property subject to a recorded claim of lien under this chapter, or lender or another lien claimant who believes the claim of lien to be frivolous and made without reasonable cause or clearly excessive, may apply by motion to the appropriate court, as specified under section 8 of this act, for the county where the property or some part thereof is located, for an order directing the lien claimant to appear before the court at a time no earlier than six nor later than 15 days following the date of service of the application and order on the lien claimant, and show cause, if any he or she has, why the relief requested should not be granted. The motion shall state the grounds upon which relief is asked and shall be supported by the affidavit of the applicant or his or her attorney setting forth a concise statement of the facts upon which the motion is based.

(2) The order shall clearly state that if the lien claimant fails to appear at the time and place noted the lien shall be released, with prejudice, and that the lien claimant shall be ordered to pay the costs requested by the applicant including reasonable attorneys' fees.

(3) If no action to foreclose the lien claim has been filed, the clerk of the court shall assign a cause number to the application and obtain from the applicant a filing fee pursuant to RCW 36.18.016(18). If an action has been filed to foreclose the lien claim, the application shall be made a part of that action.

(4) If, following a hearing on the matter, the court determines that the lien is frivolous and made without reasonable cause, or clearly excessive, the court shall issue an order releasing the lien if frivolous and made without reasonable cause, or reducing the lien if clearly excessive, and awarding costs and reasonable attorneys' fees to the applicant to be paid by the lien claimant. If the court determines that the lien is not frivolous and was made with reasonable cause, and is not clearly excessive, the court shall issue an order so stating and

awarding costs and reasonable attorneys' fees to the lien claimant to be paid by the applicant.

(5) Proceedings under this section shall not affect other rights and remedies available to the parties.

NEW SECTION. Sec. 15. (1) Any owner of property subject to a recorded claim of lien under this chapter, or lender or another lien claimant, who disputes the correctness or validity of the claim of lien, may either before or after the commencement of an action on the wage claim underlying the lien, furnish a bond issued by a surety company authorized to issue surety bonds in the state. The surety company must be listed in the latest federal department of the treasury list of surety companies acceptable on federal bonds, published in the federal register, as authorized to issue bonds on United States government projects with an underwriting limitation, including applicable reinsurance, equal to or greater than the amount of the bond to be recorded.

(2)(a) The bond shall contain a description of the claim of lien and property involved, and must be in an amount equal to the greater of \$5,000 or two times the amount of the lien claimed if the lien claimed is \$10,000 or less, and in an amount equal to or greater than one and one-half times the amount of the lien if the lien claimed is in excess of \$10,000.

(b) If the bond relates to a claim of lien affecting more than one parcel of real property and the claim of lien is segregated to each parcel, the bond may be segregated the same as in the claim of lien.

(c) A separate bond shall be required for each claim of lien made by separate claimants. However, a single bond may be used to guarantee payment of amounts claimed by more than one claim of lien by a single claimant so long as the amount of the bond meets the requirements of this section as applied to the aggregate sum of all claims by such claimant.

(d) The condition of the bond shall be to guarantee payment of any judgment or binding administrative assessment upon the lien in favor of the lien claimant entered in any action to recover the amount claimed in a claim of lien, or on the claim asserted in the claim of lien.

(3) For a lien on real property, the bond must be recorded in the office of the county recorder or auditor in the county where the claim of lien was recorded. Recording a bond that meets the requirements of this section releases the real property described in the notice of claim of lien from the lien and any action brought to recover the amount claimed.

(4)(a) For a lien on personal property, within five days of furnishing a bond, the person furnishing the bond shall send notice to the lien claimant, by certified mail return receipt requested, notifying the lien claimant that a bond meeting the requirements of this section has been furnished. The notification must include sufficient documentation or other evidence showing that a bond meeting the requirements of this section has been furnished.

(b) Within 15 days of receiving notice that a bond has been purchased, the lien claimant shall release the lien pursuant to section 10 of this act. If a lien claimant fails to release the wage lien as required, upon demand and 15 days' notice by the employer or any affected party, mailed to the lien claimant's address as indicated on the notice of the wage lien by certified mail with return receipt requested, the employer or affected party may petition the court in which foreclosure is authorized under section 8 of this act, for an order releasing the

wage lien. If the lien claimant acted unreasonably and in bad faith in refusing to file a release of the wage lien, the employer or affected party shall be entitled to recover its attorneys' fees and costs incurred in the action, and the court in its discretion may also issue a fine not to exceed \$1,000.

(5)(a) Unless otherwise prohibited by law, if no action is commenced to recover on a lien within the time specified in section 10 of this act, the surety shall be discharged from liability under the bond.

(b) If an action to enforce the lien is timely commenced, then on payment of any judgment or administrative assessment entered in the action or on payment of the full amount of the bond to the holder of the judgment or administrative assessment, whichever is less, the surety shall be discharged from liability under the bond.

(6) Nothing in this section shall in any way prohibit or limit the use of other methods, devised by the affected parties to secure the obligation underlying a claim of lien and to obtain a release of real property from a claim of lien.

NEW SECTION. Sec. 16. This chapter is to be liberally construed to provide security for all persons intended to be protected by its provisions.

Sec. 17. RCW 36.18.016 and 2018 c 36 s 7 are each amended to read as follows:

(1) Revenue collected under this section is not subject to division under RCW 36.18.025 or 27.24.070.

(2)(a) For the filing of a petition for modification of a decree of dissolution or paternity, within the same case as the original action, and any party filing a counterclaim, cross-claim, or third-party claim in any such action, a fee of thirty-six dollars must be paid.

(b) The party filing the first or initial petition for dissolution, legal separation, or declaration concerning the validity of marriage shall pay, at the time and in addition to the filing fee required under RCW 36.18.020, a fee of fifty-four dollars. The clerk of the superior court shall transmit monthly forty-eight dollars of the fifty-four dollar fee collected under this subsection to the state treasury for deposit in the domestic violence prevention account. The remaining six dollars shall be retained by the county for the purpose of supporting community-based domestic violence services within the county, except for five percent of the six dollars, which may be retained by the court for administrative purposes. On or before December 15th of each year, the county shall report to the department of social and health services revenues associated with this section and community-based domestic violence services expenditures. The department of social and health services shall develop a reporting form to be utilized by counties for uniform reporting purposes.

(3)(a) The party making a demand for a jury of six in a civil action shall pay, at the time, a fee of one hundred twenty-five dollars; if the demand is for a jury of twelve, a fee of two hundred fifty dollars. If, after the party demands a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional one hundred twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(b) Upon conviction in criminal cases a jury demand charge of one hundred twenty-five dollars for a jury of six, or two hundred fifty dollars for a jury of twelve may be imposed as costs under RCW 10.46.190.

(4) For preparing a certified copy of an instrument on file or of record in the clerk's office, for the first page or portion of the first page, a fee of five dollars, and for each additional page or portion of a page, a fee of one dollar must be charged. For authenticating or exemplifying an instrument, a fee of two dollars for each additional seal affixed must be charged. For preparing a copy of an instrument on file or of record in the clerk's office without a seal, a fee of fifty cents per page must be charged. When copying a document without a seal or file that is in an electronic format, a fee of twenty-five cents per page must be charged. For copies made on a compact disc, an additional fee of twenty dollars for each compact disc must be charged.

(5) For executing a certificate, with or without a seal, a fee of two dollars must be charged.

(6) For a garnishee defendant named in an affidavit for garnishment and for a writ of attachment, a fee of twenty dollars must be charged.

(7) For filing a supplemental proceeding, a fee of twenty dollars must be charged.

(8) For approving a bond, including justification on the bond, in other than civil actions and probate proceedings, a fee of two dollars must be charged.

(9) For the issuance of a certificate of qualification and a certified copy of letters of administration, letters testamentary, or letters of guardianship, there must be a fee of five dollars.

(10) For the preparation of a passport application, the clerk may collect an execution fee as authorized by the federal government.

(11) For clerk's services such as performing historical searches, compiling statistical reports, and conducting exceptional record searches, the clerk may collect a fee not to exceed thirty dollars per hour.

(12) For processing ex parte orders, the clerk may collect a fee of thirty dollars.

(13) For duplicated recordings of court's proceedings there must be a fee of ten dollars for each audiotape and twenty-five dollars for each video or other electronic storage medium.

(14) For registration of land titles, Torrens Act, under RCW 65.12.780, a fee of twenty dollars must be charged.

(15) For the issuance of extension of judgment under RCW 6.17.020 and chapter 9.94A RCW, a fee of two hundred dollars must be charged. When the extension of judgment is at the request of the clerk, the two hundred dollar charge may be imposed as court costs under RCW 10.46.190.

(16) A facilitator surcharge of up to twenty dollars must be charged as authorized under RCW 26.12.240.

(17) For filing an adjudication claim under RCW 90.03.180, a fee of twenty-five dollars must be charged.

(18) For filing a claim of frivolous lien under RCW 60.04.081 or section 14 of this act or filing an action to release a lien under sections 10 and 15 of this act, a fee of thirty-five dollars must be charged.

(19) For preparation of a change of venue, a fee of twenty dollars must be charged by the originating court in addition to the per page charges in subsection (4) of this section.

(20) A service fee of five dollars for the first page and one dollar for each additional page must be charged for receiving faxed documents, pursuant to Washington state rules of court, general rule 17.

(21) For preparation of clerk's papers under RAP 9.7, a fee of fifty cents per page must be charged.

(22) For copies and reports produced at the local level as permitted by RCW 2.68.020 and supreme court policy, a variable fee must be charged.

(23) Investment service charge and earnings under RCW 36.48.090 must be charged.

(24) Costs for nonstatutory services rendered by clerk by authority of local ordinance or policy must be charged.

(25) For filing a request for civil arbitration, a filing fee may be assessed against the party filing a statement of arbitrability not to exceed two hundred fifty dollars as established by authority of local ordinance. Two hundred twenty dollars of this charge shall be used to offset the cost of the civil arbitration program. Thirty dollars of each fee collected under this subsection must be used for indigent defense services.

(26) For filing a request for trial de novo of a civil arbitration award, a fee not to exceed four hundred dollars as established by authority of local ordinance must be charged.

(27) A public agency may not charge a fee to a law enforcement agency, for preparation, copying, or mailing of certified copies of the judgment and sentence, information, affidavit of probable cause, and/or the notice of requirement to register, of a sex offender convicted in a Washington court, when such records are necessary for risk assessment, preparation of a case for failure to register, or maintenance of a sex offender's registration file.

(28) For the filing of a will or codicil under the provisions of chapter 11.12 RCW, a fee of twenty dollars must be charged.

(29) For the collection of an adult offender's unpaid legal financial obligations, the clerk may impose an annual fee of up to one hundred dollars, pursuant to RCW 9.94A.780.

(30) A surcharge of up to twenty dollars may be charged in dissolution and legal separation actions as authorized by RCW 26.12.260.

The revenue to counties from the fees established in this section shall be deemed to be complete reimbursement from the state for the state's share of benefits paid to the superior court judges of the state prior to July 24, 2005, and no claim shall lie against the state for such benefits.

Sec. 18. RCW 49.48.086 and 2014 c 210 s 1 are each amended to read as follows:

(1) After a final order is issued under RCW 49.48.084, if an employer defaults in the payment of: (a) Any wages determined by the department to be owed to an employee, including interest; or (b) any civil penalty ordered by the department under RCW 49.48.083, the director may file with the clerk of any county within the state a warrant in the amount of the payment plus any filing fees. The clerk of the county in which the warrant is filed shall immediately designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the employer mentioned in the warrant, the amount of payment due on it plus any filing fees, and the date when

the warrant was filed. The aggregate amount of the warrant as docketed becomes a lien upon the title to, and interest in, all real and personal property of the employer against whom the warrant is issued, the same as a judgment in a civil case docketed in the office of the clerk. The sheriff shall proceed upon the warrant in all respects and with like effect as prescribed by law with respect to execution or other process issued against rights or property upon judgment in a court of competent jurisdiction. The warrant so docketed is sufficient to support the issuance of writs of garnishment in favor of the state in a manner provided by law in case of judgment, wholly or partially unsatisfied. The clerk of the court is entitled to a filing fee which will be added to the amount of the warrant. A copy of the warrant shall be mailed to the employer within three days of filing with the clerk.

(2)(a) The director may issue to any person, firm, corporation, other entity, municipal corporation, political subdivision of the state, a public corporation, or any agency of the state, a notice and order to withhold and deliver property of any kind when he or she has reason to believe that there is in the possession of the person, firm, corporation, other entity, municipal corporation, political subdivision of the state, public corporation, or agency of the state, property that is or will become due, owing, or belonging to an employer upon whom a notice of assessment has been served by the department for payments or civil penalties due to the department. The effect of a notice and order is continuous from the date the notice and order is first made until the liability out of which the notice and order arose is satisfied or becomes unenforceable because of lapse of time. The department shall release the notice and order when the liability out of which the notice and order arose is satisfied or becomes unenforceable by reason of lapse of time and shall notify the person against whom the notice and order was made that the notice and order has been released.

(b) The notice and order to withhold and deliver must be served by the sheriff of the county or by the sheriff's deputy, by certified mail, return receipt requested, or by the director. A person, firm, corporation, other entity, municipal corporation, political subdivision of the state, public corporation, or agency of the state upon whom service has been made shall answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice and order. Upon service of the notice and order, if the party served possesses any property that may be subject to the claim of the department, the party shall promptly deliver the property to the director. The director shall hold the property in trust for application on the employer's indebtedness to the department, or for return without interest, in accordance with a final determination of a petition for review. In the alternative, the party shall furnish a good and sufficient surety bond satisfactory to the director conditioned upon final determination of liability. If a party served and named in the notice fails to answer the notice within the time prescribed in this section, the court may render judgment by default against the party for the full amount claimed by the director in the notice, together with costs. If a notice is served upon an employer and the property subject to it is wages, the employer may assert in the answer all exemptions provided for by chapter 6.27 RCW to which the wage earner is entitled.

(c) As an alternative to the methods of service described in this section, the department may electronically serve a financial institution with a notice and

order to withhold and deliver by providing a list of its outstanding warrants, except those for which a payment agreement is in good standing, to the department of revenue. The department of revenue may include the warrants provided by the department in a notice and order to withhold and deliver served under RCW 82.32.235(3). A financial institution that is served with a notice and order to withhold and deliver under this subsection (2)(c) must answer the notice within the time period applicable to service under RCW 82.32.235(3). The department and the department of revenue may adopt rules to implement this subsection (2)(c).

(3)(a) In addition to the procedure for collection of wages owed, including interest, and civil penalties as set forth in this section, the department may recover wages owed, including interest, and civil penalties assessed under RCW 49.48.083 in a civil action brought in a court of competent jurisdiction of the county where the violation is alleged to have occurred.

(b) The department may use the procedures under this section to foreclose wage liens established under chapter 60.--- RCW (the new chapter created in section 22 of this act). When the department is foreclosing on a wage lien, the date the wage lien was originally filed shall be the date by which priority is determined, regardless of the date the warrant is filed under this section. If a claimant has timely notified the department that the claimant will pursue foreclosure on their own, without the department's assistance, the department is not required to file a warrant under this section and is relieved from any liability related to foreclosing on the claimant's wage lien.

(4) Whenever any employer quits business, sells out, exchanges, or otherwise disposes of the employer's business or stock of goods, any person who becomes a successor to the business becomes liable for the full amount of any outstanding citation and notice of assessment or penalty against the employer's business under this chapter if, at the time of the conveyance of the business, the successor has: (a) Actual knowledge of the fact and amount of the outstanding citation and notice of assessment or (b) a prompt, reasonable, and effective means of accessing and verifying the fact and amount of the outstanding citation and notice of assessment from the department. If the citation and notice of assessment or penalty is not paid in full by the employer within ten days of the date of the sale, exchange, or disposal, the successor is liable for the payment of the full amount of the citation and notice of assessment or penalty, and payment thereof by the successor must, to the extent thereof, be deemed a payment upon the purchase price. If the payment is greater in amount than the purchase price, the amount of the difference becomes a debt due the successor from the employer.

(5) This section does not affect other collection remedies that are otherwise provided by law.

NEW SECTION, Sec. 19. A new section is added to chapter 43.24 RCW to read as follows:

For the purposes of implementing the notice and filing provisions under sections 4(2)(a) and 10 of this act that are applicable to the department of licensing, the department of licensing may, by rule, create wage lien forms specific to the department of licensing, so long as the forms include the information described in those sections.

NEW SECTION. Sec. 20. A new section is added to chapter 43.24 RCW to read as follows:

The department of licensing wage lien account is created in the state treasury. All receipts from wage lien filing fees collected by the department of licensing must be deposited in the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to administer wage lien filings in section 4 of this act.

NEW SECTION. Sec. 21. This act takes effect January 1, 2022.

NEW SECTION. Sec. 22. Sections 1 through 16 and 21 of this act constitute a new chapter in Title 60 RCW.

Passed by the Senate March 9, 2021.

Passed by the House April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 103

[Engrossed Senate Bill 5356]

PUBLIC WORKS CONTRACTS—PRIME CONTRACTOR BIDDING

AN ACT Relating to prime contractor bidding submission requirements on public works contracts; and amending RCW 39.30.060.

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

Sec. 1. RCW 39.30.060 and 2020 c 140 s 1 are each amended to read as follows:

(1) Every invitation to bid on a prime contract that is expected to cost ~~((one million dollars))~~ \$1,000,000 or more for the construction, alteration, or repair of any public building or public work of the state or a state agency or municipality as defined under RCW 39.04.010 or an institution of higher education as defined under RCW 28B.10.016 shall require each prime contract bidder to submit:

(a) Within one hour after the published bid submittal time, the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of the work of: HVAC (heating, ventilation, and air conditioning); plumbing as described in chapter 18.106 RCW; and electrical as described in chapter 19.28 RCW, or to name itself for the work; ~~((or))~~ and

(b) Within ~~((forty-eight))~~ 48 hours after the published bid submittal time, the names of the subcontractors with whom the bidder, if awarded the contract, will subcontract for performance of the work of structural steel installation and rebar installation.

(2) The prime contract bidder shall not list more than one subcontractor for each category of work identified, unless subcontractors vary with bid alternates, in which case the prime contract bidder must indicate which subcontractor will be used for which alternate. Failure of the prime contract bidder to submit as part of the bid the names of such subcontractors or to name itself to perform such work or the naming of two or more subcontractors to perform the same work shall render the prime contract bidder's bid nonresponsive and, therefore, void.

(3) Substitution of a listed subcontractor in furtherance of bid shopping or bid peddling before or after the award of the prime contract is prohibited and the originally listed subcontractor is entitled to recover monetary damages from the

prime contract bidder who executed a contract with the public entity and the substituted subcontractor but not from the public entity inviting the bid. It is the original subcontractor's burden to prove by a preponderance of the evidence that bid shopping or bid peddling occurred. Substitution of a listed subcontractor may be made by the prime contractor for the following reasons:

(a) Refusal of the listed subcontractor to sign a contract with the prime contractor;

(b) Bankruptcy or insolvency of the listed subcontractor;

(c) Inability of the listed subcontractor to perform the requirements of the proposed contract or the project;

(d) Inability of the listed subcontractor to obtain the necessary license, bonding, insurance, or other statutory requirements to perform the work detailed in the contract;

(e) Refusal or inability to provide a letter of bondability from a surety company; or

(f) The listed subcontractor is barred from participating in the project as a result of a court order or summary judgment.

(4) The requirement of this section to name the prime contract bidder's proposed subcontractors applies only to proposed HVAC, plumbing, electrical, structural steel installation, and rebar installation subcontractors who will contract directly with the prime contract bidder submitting the bid to the public entity.

(5) This section does not apply to design-build requests for proposals under RCW 39.10.330, to general contractor/construction manager requests for proposals under RCW 39.10.350, or to job order contract requests for proposals under RCW 39.10.420.

(6) The legislature finds that there are hundreds of capital construction projects completed each year which include complex contracting and bidding requirements. It is the intent of the legislature to review current subcontractor listing requirements to allow fair, transparent, and competitive bidding while prohibiting bid shopping. The capital projects advisory review board must submit a report to the governor and the appropriate committees of the legislature by November 1, 2020, and a second report by November 1, 2022. The ~~((report))~~ reports must:

(a) Evaluate current subcontractor listing policies and practices;

(b) Recommend appropriate expansion of the number of subcontractors that may be listed in order to improve transparency and fairness without reducing competitive bidding and access to public works by minority and women-owned businesses; and

(c) Recommend possible project threshold and time frames for purposes of subcontractor listings for all scopes of work that are not required to list under law, including: The timing of subcontractor listing, bond requirements for subcontractors, general contractors standard contract request, and general contractor/construction manager and design-build applications.

Passed by the Senate February 23, 2021.

Passed by the House April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 104

[Engrossed Senate Bill 5372]

HEMP PROCESSORS—REGISTRATION AND HEMP EXTRACT CERTIFICATION

AN ACT Relating to hemp processor registration and a hemp extract certification; amending RCW 15.140.020, 15.140.060, 15.140.120, and 69.07.020; reenacting and amending RCW 69.07.010; adding a new section to chapter 69.07 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature intends to authorize and establish hemp processor registration and hemp extract certification necessary for entrance and compliance with interstate and international commerce and business requirements or stipulations in regard to hemp processing. A voluntary processor registration or hemp extract certification in lieu of a hemp processor license will allow persons or companies to ship transitional or final hemp products to states and countries that require a hemp processor license or registration.

Sec. 2. RCW 15.140.020 and 2019 c 158 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) "Agriculture improvement act of 2018" means sections 7605, 10113, 10114, and 12619 of the agriculture improvement act of 2018, P.L. 115-334.

(2) "Crop" means hemp grown as an agricultural commodity.

(3) "Cultivar" means a variation of the plant *Cannabis sativa L.* that has been developed through cultivation by selective breeding.

(4) "Department" means the Washington state department of agriculture.

(5) "Food" has the same meaning as defined in RCW 69.07.010.

(6) "Hemp" means the plant *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

~~((6))~~ (7) "Hemp processor" means a person who takes possession of raw hemp material with the intent to modify, package, or sell a transitional or finished hemp product.

(8)(a) "Industrial hemp" means all parts and varieties of the genera *Cannabis*, cultivated or possessed by a grower, whether growing or not, that contain a tetrahydrocannabinol concentration of 0.3 percent or less by dry weight that was grown under the industrial hemp research program as it existed on December 31, 2019.

(b) "Industrial hemp" does not include plants of the genera *Cannabis* that meet the definition of "marijuana" as defined in RCW 69.50.101.

~~((7))~~ (9) "Postharvest test" means a test of delta-9 tetrahydrocannabinol concentration levels of hemp after being harvested based on:

(a) Ground whole plant samples without heat applied; or

(b) Other approved testing methods.

~~((8))~~ (10) "Process" means the processing, compounding, or conversion of hemp into hemp commodities or products.

~~((9))~~ (11) "Produce" or "production" means the planting, cultivation, growing, or harvesting of hemp including hemp seed.

Sec. 3. RCW 15.140.060 and 2019 c 158 s 6 are each amended to read as follows:

(1) The department must issue hemp producer licenses to applicants qualified under this chapter and the agriculture improvement act of 2018. The department may adopt rules pursuant to this chapter and chapter 34.05 RCW as necessary to license persons to grow hemp under a commercial hemp program. The department may adopt rules pursuant to this chapter and chapter 34.05 RCW as necessary to register hemp processors.

(2) A hemp processor that processes hemp for commercial use or sale may register with the department. The registration application must include the physical address of all locations where hemp is processed or stored, a registration fee as set in rule, and any other information required by the department by rule. A registered hemp processor is not required to obtain a hemp producer license. A registered hemp processor must be a registered business entity in Washington state or a foreign entity compliant with state laws.

(3) The plan must identify qualifications for license applicants, to include adults and corporate persons and to exclude persons with felony convictions as required under the agriculture improvement act of 2018.

~~((3))~~ (4) The department must establish license fees in an amount that will fund the implementation of this chapter and sustain the hemp program. The department may adopt rules establishing fees for tetrahydrocannabinol testing, inspections, and additional services required by the United States department of agriculture. License fees and any money received by the department under this chapter must be deposited in the hemp regulatory account created in RCW 15.140.080.

Sec. 4. RCW 15.140.120 and 2019 c 158 s 16 are each amended to read as follows:

Beginning on April 26, 2019:

(1) No law or rule related to certified or interstate hemp seeds applies to or may be enforced against a person with a license to produce or process hemp issued under this chapter (~~or chapter 15.120 RCW~~); and

(2) No department or other state agency rule may establish or enforce a buffer zone or distance requirement between a person with a license or authorization to produce or process hemp under this chapter (~~or chapter 15.120 RCW~~) and a person with a license to produce or process marijuana issued under chapter 69.50 RCW. The department may not adopt rules without the evaluation of sufficient data showing impacts to either crop as a result of cross-pollination.

(3) Notwithstanding the rule-making provisions of RCW 15.140.030(2), if a marijuana producer or marijuana processor licensed by the liquor and cannabis board under chapter 69.50 RCW is engaged in producing or processing hemp at the same location for which they are licensed to produce or process marijuana, the liquor and cannabis board may test samples represented as hemp that are obtained from a location licensed for marijuana production or marijuana processing for the sole purpose of validating THC content of products represented as hemp. Any product with a delta-9 tetrahydrocannabinol

concentration exceeding 0.3 percent on a dry weight basis is considered marijuana and is subject to the provisions of chapter 69.50 RCW.

Sec. 5. RCW 69.07.010 and 2017 c 138 s 1 are each reenacted and amended to read as follows:

~~((For the purposes of this chapter:))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means the state liquor and cannabis board;

(2) "Department" means the department of agriculture of the state of Washington;

(3) "Director" means the director of the department;

(4) "Food" means any substance used for food or drink by any person, including ice, bottled water, and any ingredient used for components of any such substance regardless of the quantity of such component;

(5) "Food processing" means the handling or processing of any food in any manner in preparation for sale for human consumption: PROVIDED, That it shall not include fresh fruit or vegetables merely washed or trimmed while being prepared or packaged for sale in their natural state;

(6) "Food processing plant" includes but is not limited to any premises, plant, establishment, building, room, area, facilities and the appurtenances thereto, in whole or in part, where food is prepared, handled or processed in any manner for distribution or sale for resale by retail outlets, restaurants, and any such other facility selling or distributing to the ultimate consumer: PROVIDED, That, as set forth herein, establishments processing foods in any manner for resale shall be considered a food processing plant as to such processing;

(7) "Food service establishment" shall mean any fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, night club, roadside stand, industrial-feeding establishment, retail grocery, retail food market, retail meat market, retail bakery, private, public, or nonprofit organization routinely serving food, catering kitchen, commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

For the purpose of this chapter any custom cannery or processing plant where raw food products, food, or food products are processed for the owner thereof, or the food processing facilities are made available to the owners or persons in control of raw food products or food or food products for processing in any manner, shall be considered to be food processing plants;

(8) "Hemp extract" means a substance or compound intended for human ingestion that is derived from, or made by, processing hemp. The term does not include hemp seeds or hemp seed-derived ingredients that are generally recognized as safe by the United States food and drug administration.

(9) "Hemp extract certification" means a certification issued by the department to a hemp processor manufacturing hemp extract for export to other states, which certifies the hemp processor's compliance with Washington state's inspection and sanitation requirements.

(10) "Hemp processor" has same meaning as defined in RCW 15.140.020.

(11) "Marijuana" has the definition in RCW 69.50.101;

~~((9))~~ (12) "Marijuana-infused edible" has the same meaning as "marijuana-infused products" as defined in RCW 69.50.101, but limited to products intended for oral consumption;

~~((10))~~ (13) "Marijuana-infused edible processing" means processing, packaging, or making marijuana-infused edibles using marijuana, marijuana extract, or marijuana concentrates as an ingredient. The term does not include preparation of marijuana as an ingredient including, but not limited to, processing marijuana extracts or marijuana concentrates;

~~((11))~~ (14) "Marijuana processor" has the definition in RCW 69.50.101;

~~((12))~~ (15) "Person" means an individual, partnership, corporation, or association;

~~((13))~~ (16) "Sale" means selling, offering for sale, holding for sale, preparing for sale, trading, bartering, offering a gift as an inducement for sale of, and advertising for sale in any media.

NEW SECTION. **Sec. 6.** A new section is added to chapter 69.07 RCW to read as follows:

(1) Until such time as hemp extract is federally authorized for use as a food ingredient, hemp extract is not an approved food ingredient in Washington state. A hemp processor who wishes to engage in the production of hemp extract for use as a food ingredient in another state that allows its use as a food ingredient may apply for a hemp extract certification to certify the hemp processor's compliance with Washington's inspection and good manufacturing practices requirements. The department shall regulate hemp extract processing the same as other food processing under chapters 15.130, 69.07, and 69.22 RCW with the exceptions contained in subsections (2) through (6) of this section.

(2) The department's oversight is limited to certifying a hemp processor's compliance with applicable inspection and good manufacturing practices requirements as adopted by the department under chapter 15.130 RCW.

(3) The department must issue a hemp extract certification in lieu of a food processing license under RCW 69.07.040 to a hemp processor who meets the application requirements described in subsection (4) of this section. A hemp processor holding a hemp extract certification must apply for renewal of the certification annually.

(4) The application, initial certification, and renewal fees must be in an amount established by the department. Applicants for certification otherwise must meet the same requirements as applicants for a food processing license under chapter 69.07 RCW including, but not limited to, successful completion of an inspection by the department.

(5) The department may deny, suspend, or revoke a hemp extract certification on the same grounds as the department may deny, suspend, or revoke a food processor's license under this chapter.

(6) At such time as federal authorization of hemp extracts as a food ingredient occurs, the department must cease issuance of certifications under this chapter. At renewal, hemp processors certified under this section must apply for a food processor license in accordance with RCW 69.07.040.

Sec. 7. RCW 69.07.020 and 2017 c 138 s 2 are each amended to read as follows:

(1) The department shall enforce and carry out the provisions of this chapter, and may adopt the necessary rules to carry out its purposes.

(2) Such rules may include:

(a) Standards for temperature controls in the storage of foods, so as to provide proper refrigeration.

(b) Standards for temperatures at which low acid foods must be processed and the length of time such temperatures must be applied and at what pressure in the processing of such low acid foods.

(c) Standards and types of recording devices that must be used in providing records of the processing of low acid foods, and how they shall be made available to the department of agriculture for inspection.

(d) Requirements for the keeping of records of the temperatures, times and pressures at which foods were processed, or for the temperatures at which refrigerated products were stored by the licensee and the furnishing of such records to the department.

(e) Standards that must be used to establish the temperature and purity of water used in the processing of foods.

(3) The department may adopt rules specific to marijuana-infused edibles. Such rules must be written and interpreted to be consistent with rules adopted by the board and the department of health.

(4) The department may adopt rules specific to hemp extract certification to implement section 6 of this act.

Passed by the Senate March 9, 2021.

Passed by the House April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 105

[Substitute Senate Bill 5384]

VOLUNTEER FIREFIGHTERS—DEFINITION—EMPLOYMENT PROTECTION

AN ACT Relating to volunteer firefighters; amending RCW 49.12.460; creating a new section; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** In 2020, wildfire swept across central Washington. In the aftermath, it was found that volunteer firefighters were not allowed to leave work to fight for their family homes simply because they would have been paid as wildland firefighters. The legislature finds that volunteer firefighters, even those compensated for wildland firefighting, should be allowed to leave work to protect their communities.

Sec. 2. RCW 49.12.460 and 2010 c 170 s 1 are each amended to read as follows:

(1) An employer may not discharge from employment or discipline:

(a) A volunteer firefighter or reserve officer because of leave taken related to an alarm of fire or an emergency call; or

(b) A civil air patrol member because of leave taken related to an emergency service operation.

(2)(a) A volunteer firefighter or reserve officer or civil air patrol member who believes he or she was discharged or disciplined in violation of this section may file a complaint alleging the violation with the director. The volunteer firefighter or reserve officer or civil air patrol member may allege a violation only by filing such a complaint within ninety days of the alleged violation.

(b) Upon receipt of the complaint, the director must cause an investigation to be made as the director deems appropriate and must determine whether this section has been violated. Notice of the director's determination must be sent to the complainant and the employer within ninety days of receipt of the complaint.

(c) If the director determines that this section was violated and the employer fails to reinstate the employee or withdraw the disciplinary action taken against the employee, whichever is applicable, within thirty days of receipt of notice of the director's determination, the volunteer firefighter or reserve officer or civil air patrol member may bring an action against the employer alleging a violation of this section and seeking reinstatement or withdrawal of the disciplinary action.

(d) In any action brought under this section, the superior court shall have jurisdiction, for cause shown, to restrain violations under this section and to order reinstatement of the employee or withdrawal of the disciplinary action.

(3) For the purposes of this section:

(a) "Alarm of fire or emergency call" means responding to, working at, or returning from a fire alarm or an emergency call, but not participating in training or other nonemergency activities.

(b) "Civil air patrol member" means a person who is a member of the Washington wing of the civil air patrol.

(c) "Emergency service operation" means the following operations of the civil air patrol:

(i) Search and rescue missions designated by the air force rescue coordination center;

(ii) Disaster relief, when requested by the federal emergency management agency or the department of homeland security;

(iii) Humanitarian services, when requested by the federal emergency management agency or the department of homeland security;

(iv) United States air force support designated by the first air force; and

(v) Counterdrug missions.

(d) "Employer" means an employer who had twenty or more full-time equivalent employees in the previous year.

(e) "Reinstatement" means reinstatement with back pay, without loss of seniority or benefits, and with removal of any related adverse material from the employee's personnel file, if a file is maintained by the employer.

(f) "Withdrawal of disciplinary action" means withdrawal of disciplinary action with back pay, without loss of seniority or benefits, and with removal of any related adverse material from the employee's personnel file, if a file is maintained by the employer.

(g) "Volunteer firefighter" means a firefighter covered under chapter 41.24 RCW who:

~~((i) Is not paid;~~

~~(ii) Is not already at his or her place of employment when called to serve as a volunteer, unless the employer agrees to provide such an accommodation; and~~

~~(iii) Has~~) (i) Voluntarily performs, regardless of reimbursement, any assigned or authorized duties on behalf of or at the direction of a firefighting or emergency response unit of a city, county, fire district, regional fire protection district, port district, or the state, including but not limited to service pursuant to RCW 43.43.960 through 43.43.975; and

(ii)(A) Has notified their employer of their firefighter status and intent to serve as a volunteer if already at the place of employment when called to serve as a volunteer; or

(B) If not already at the place of employment when called to serve as a volunteer, has been ordered to remain at (~~his or her~~) their position by the commanding authority at the scene of the fire.

(h) "Reserve officer" has the meaning provided in RCW 41.24.010.

(4) The legislature declares that the public policies articulated in this section depend on the procedures established in this section and no civil or criminal action may be maintained relying on the public policies articulated in this section without complying with the procedures set forth in this section, and to that end all civil actions and civil causes of action for such injuries and all jurisdiction of the courts of this state over such causes are hereby abolished, except as provided in 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 immediately.

Passed by the Senate February 23, 2021.

Passed by the House April 6, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 106

[Senate Bill 5385]

MUNICIPAL AIRPORTS—MINIMUM LABOR STANDARDS—SIZE

AN ACT Relating to the size of the airport a municipality must control or operate for that municipality to enact minimum labor standards for employees at the airport; and amending RCW 14.08.120.

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

Sec. 1. RCW 14.08.120 and 2020 c 96 s 1 are each amended to read as follows:

(1) In addition to the general powers conferred in this chapter, and without limitation thereof, a municipality that has established or may hereafter establish airports, restricted landing areas, or other air navigation facilities, or that has acquired or set apart or may hereafter acquire or set apart real property for that purpose or purposes is authorized:

(a) To vest authority for the construction, enlargement, improvement, maintenance, equipment, operation, and regulation thereof in an officer, a board, or body of the municipality by ordinance or resolution that prescribes the powers and duties of the officer, board, or body; and the municipality may also vest authority for industrial and commercial development in a municipal airport commission consisting of at least five resident taxpayers of the municipality to

be appointed by the governing board of the municipality by an ordinance or resolution that includes (i) the terms of office, which may not exceed six years and which shall be staggered so that not more than three terms will expire in the same year, (ii) the method of appointment and filling vacancies, (iii) a provision that there shall be no compensation but may provide for a per diem of not to exceed twenty-five dollars per day plus travel expenses for time spent on commission business, (iv) the powers and duties of the commission, and (v) any other matters necessary to the exercise of the powers relating to industrial and commercial development. The expense of the construction, enlargement, improvement, maintenance, equipment, industrial and commercial development, operation, and regulation are the responsibility of the municipality.

(b) To adopt and amend all needed rules, regulations, and ordinances for the management, government, and use of any properties under its control, whether within or outside the territorial limits of the municipality; to provide fire protection for the airport, including the acquisition and operation of fire protection equipment and facilities, and the right to contract with any private body or political subdivision of the state for the furnishing of such fire protection; to appoint airport guards or police, with full police powers; to fix by ordinance or resolution, as may be appropriate, penalties for the violation of the rules, regulations, and ordinances, and enforce those penalties in the same manner in which penalties prescribed by other rules, regulations, and ordinances of the municipality are enforced. For the purposes of such management and government and direction of public use, that part of all highways, roads, streets, avenues, boulevards, and territory that adjoins the limits of any airport or restricted landing area acquired or maintained under the provisions of this chapter is under like control and management of the municipality. It may also adopt and enact rules, regulations, and ordinances designed to safeguard the public upon or beyond the limits of private airports or landing strips within the municipality or its police jurisdiction against the perils and hazards of instrumentalities used in aerial navigation. Rules, regulations, and ordinances shall be published as provided by general law or the charter of the municipality for the publication of similar rules, regulations, and ordinances. They shall conform to and be consistent with the laws of this state and the rules of the state department of transportation and shall be kept in conformity, as nearly as may be, with the then current federal legislation governing aeronautics and the regulations duly promulgated thereunder and the rules and standards issued from time to time pursuant thereto.

(c) To create a special airport fund, and provide that all receipts from the operation of the airport be deposited in the fund, which fund shall remain intact from year to year and may be pledged to the payment of aviation bonds, or kept for future maintenance, construction, or operation of airports or airport facilities.

(d) To lease airports or other air navigation facilities, or real property acquired or set apart for airport purposes, to private parties, any municipal or state government or the national government, or any department thereof, for operation; to lease or assign to private parties, any municipal or state government or the national government, or any department thereof, for operation or use consistent with the purposes of this chapter, space, area, improvements, or equipment of such airports; to authorize its lessees to construct, alter, repair, or improve the leased premises at the cost of the lessee and to reimburse its lessees

for such cost, provided the cost is paid solely out of funds fully collected from the airport's tenants; to sell any part of such airports, other air navigation facilities or real property to any municipal or state government, or to the United States or any department or instrumentality thereof, for aeronautical purposes or purposes incidental thereto, and to confer the privileges of concessions of supplying upon its airports goods, commodities, things, services, and facilities: PROVIDED, That in each case in so doing the public is not deprived of its rightful, equal, and uniform use thereof.

(e) Acting through its governing body, to sell or lease any property, real or personal, acquired for airport purposes and belonging to the municipality, which, in the judgment of its governing body, may not be required for aircraft landings, aircraft takeoffs or related aeronautic purposes, in accordance with the laws of this state, or the provisions of the charter of the municipality, governing the sale or leasing of similar municipally owned property. The municipal airport commission, if one has been organized and appointed under (a) of this subsection, may lease any airport property for aircraft landings, aircraft takeoffs, or related aeronautic purposes. If there is a finding by the governing body of the municipality that any airport property, real or personal, is not required for aircraft landings, aircraft takeoffs, or related aeronautic purposes, then the municipal airport commission may lease such space, land, area, or improvements, or construct improvements, or take leases back for financing purposes, grant concessions on such space, land, area, or improvements, all for industrial or commercial purposes, by private negotiation and under such terms and conditions that seem just and proper to the municipal airport commission. Any such lease of real property for aircraft manufacturing or aircraft industrial purposes or to any manufacturer of aircraft or aircraft parts or for any other business, manufacturing, or industrial purpose or operation relating to, identified with, or in any way dependent upon the use, operation, or maintenance of the airport, or for any commercial or industrial purpose may be made for any period not to exceed seventy-five years, but any such lease of real property made for a longer period than ten years shall contain provisions requiring the municipality and the lessee to permit the rentals for each five-year period thereafter, to be readjusted at the commencement of each such period if written request for readjustment is given by either party to the other at least thirty days before the commencement of the five-year period for which the readjustment is requested. If the parties cannot agree upon the rentals for the five-year period, they shall submit to have the disputed rentals for the period adjusted by arbitration. The lessee shall pick one arbitrator, and the governing body of the municipality shall pick one, and the two so chosen shall select a third. After a review of all pertinent facts the board of arbitrators may increase or decrease such rentals or continue the previous rate thereof.

The proceeds of the sale of any property the purchase price of which was obtained by the sale of bonds shall be deposited in the bond sinking fund. If all the proceeds of the sale are not needed to pay the principal of bonds remaining unpaid, the remainder shall be paid into the airport fund of the municipality. The proceeds of sales of property the purchase price of which was paid from appropriations of tax funds shall be paid into the airport fund of the municipality.

(f) To determine the charges or rental for the use of any properties under its control and the charges for any services or accommodations, and the terms and

conditions under which such properties may be used: PROVIDED, That in all cases the public is not deprived of its rightful, equal, and uniform use of the property. Charges shall be reasonable and uniform for the same class of service and established with due regard to the property and improvements used and the expense of operation to the municipality. The municipality shall have and may enforce liens, as provided by law for liens and enforcement thereof, for repairs to or improvement or storage or care of any personal property, to enforce the payment of any such charges. As used in this subsection (1)(f), the term "charges" does not refer to any minimum labor standard imposed by a municipality pursuant to subsection (2) of this section.

(g) To impose a customer facility charge upon customers of rental car companies accessing the airport for the purposes of financing, designing, constructing, operating, and maintaining consolidated rental car facilities and common use transportation equipment and facilities which are used to transport the customer between the consolidated car rental facilities and other airport facilities. The airport operator may require the rental car companies to collect the facility charges, and any facility charges so collected shall be deposited in a trust account for the benefit of the airport operator and remitted at the direction of the airport operator, but no more often than once per month. The charge shall be calculated on a per-day basis. Facility charges may not exceed the reasonable costs of financing, designing, constructing, operating, and maintaining the consolidated car rental facilities and common use transportation equipment and facilities and may not be used for any other purpose. For the purposes of this subsection (1)(g), if an airport operator makes use of its own funds to finance the consolidated rental car facilities and common use transportation equipment and facilities, the airport operator (i) is entitled to earn a rate of return on such funds no greater than the interest rate that the airport operator would pay to finance such facilities in the appropriate capital market, provided that the airport operator establish the rate of return in consultation with the rental car companies, and (ii) may use the funds earned under (g)(i) of this subsection for purposes other than those associated with the consolidated rental car facilities and common use transportation equipment and facilities.

(h) To make airport property available for less than fair market rental value under very limited conditions provided that prior to the lease or contract authorizing such use the airport operator's board, commission, or council has (i) adopted a policy that establishes that such lease or other contract enhances the public acceptance of the airport and serves the airport's business interest and (ii) adopted procedures for approval of such lease or other contract.

(i) If the airport operator has adopted the policy and procedures under (h) of this subsection, to lease or license the use of property belonging to the municipality and acquired for airport purposes at less than fair market rental value as long as the municipality's council, board, or commission finds that the following conditions are met:

(i) The lease or license of the subject property enhances public acceptance of the airport in a community in the immediate area of the airport;

(ii) The subject property is put to a desired public recreational or other community use by the community in the immediate area of the airport;

(iii) The desired community use and the community goodwill that would be generated by such community use serves the business interest of the airport in ways that can be articulated and demonstrated;

(iv) The desired community use does not adversely affect the capacity, security, safety, or operations of the airport;

(v) At the time the community use is contemplated, the subject property is not reasonably expected to be used by an aeronautical tenant or otherwise be needed for airport operations in the foreseeable future;

(vi) At the time the community use is contemplated, the subject property would not reasonably be expected to produce more than de minimis revenue;

(vii) If the subject property can be reasonably expected to produce more than de minimis revenue, the community use is permitted only where the revenue to be earned from the community use would approximate the revenue that could be generated by an alternate use;

(viii) Leases for community use must not preclude reuse of the subject property for airport purposes if, in the opinion of the airport owner, reuse of the subject property would provide greater benefits to the airport than continuation of the community use;

(ix) The airport owner ensures that airport revenue does not support the capital or operating costs associated with the community use;

(x) The lease or other contract for community use is not to a for-profit organization or for the benefit of private individuals;

(xi) The lease or other contract for community use is subject to the requirement that if the term of the lease is for a period that exceeds ten years, the lease must contain a provision allowing for a readjustment of the rent every five years after the initial ten-year term;

(xii) The lease or other contract for community use is subject to the requirement that the term of the lease must not exceed fifty years; and

(xiii) The lease or other contract for community use is subject to the requirement that if the term of the lease exceeds one year, the lease or other contract obligations must be secured by rental insurance, bond, or other security satisfactory to the municipality's board, council, or commission in an amount equal to at least one year's rent, or as consistent with chapter 53.08 RCW. However, the municipality's board, council, or commission may waive the rent security requirement or lower the amount of the rent security requirement for good cause.

(j) To exercise all powers necessarily incidental to the exercise of the general and special powers granted in this section.

(2)(a) A municipality that controls or operates an airport having had more than twenty million annual commercial air service passenger enplanements on average over the most recent seven full calendar years that is located within the boundaries of a city that has passed a local law or ordinance setting a minimum labor standard that applies to certain employers operating or providing goods and services at the airport is authorized to enact a minimum labor standard that applies to employees working at the airport, so long as the minimum labor standard meets, but does not exceed, the minimum labor standard in the city's law or ordinance.

(b) A municipality's authority to establish a minimum labor standard pursuant to (a) of this subsection may be imposed only on employers that are

excluded from the minimum labor standard established by such city because the type of good or service provided by the employer is expressly excluded in the text of the city's law or ordinance.

(c) This section does not authorize a municipality to establish a minimum labor standard for an employer who was excluded from the city's law or ordinance because it is a certificated air carrier performing services for itself or based on the employer's size or number of employees.

(d) The authority granted under (a) of this subsection shall only apply to employers who provide the goods or services at the airport from facilities that are located on property owned by the municipality and within the boundaries of the city that enacted the minimum labor standard.

Passed by the Senate March 2, 2021.

Passed by the House April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 107

[Substitute Senate Bill 5425]

UNEMPLOYMENT INSURANCE—EXTENDED BENEFITS

AN ACT Relating to extended benefits in the unemployment insurance system; amending RCW 50.22.010; reenacting and amending RCW 50.22.020; adding a new section to chapter 50.22 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 50.22 RCW to read as follows:

(1) Beginning December 27, 2020, through April 12, 2021, or such subsequent date as may be provided by the employment security department by rule, an individual's eligibility period under RCW 50.22.010(8)(a) shall also include any week that begins in an extended benefit period that is in effect in this state and after the individual exhausted all rights to pandemic emergency unemployment compensation, as established in the CARES act (P.L. 116-136), as amended.

(2) With respect to determining whether the state is in an extended benefit period beginning November 1, 2020, through December 31, 2021, or such subsequent date as may be provided by the employment security department by rule, the state shall disregard the requirement in RCW 50.22.010(1)(b) that no extended benefit period may begin before the fourteenth week following the end of a prior extended benefit period which was in effect.

(3) For purposes of subsections (1) and (2) of this section, the employment security department may not adopt a subsequent date by rule if the federal share of extended benefits is less than 50 percent minus any reductions required by the budget control act of 2011, P.L. 112-25.

Sec. 2. RCW 50.22.010 and 2013 c 23 s 103 are each amended to read as follows:

As used in this chapter, unless the context clearly indicates otherwise:

(1) "Extended benefit period" means a period which:

(a) Begins with the third week after a week for which there is an "on" indicator; and

(b) ~~((Ends))~~ Except as provided in section 1 of this act, ends with the third week after the first week for which there is an "off" indicator: PROVIDED, That no extended benefit period shall last for a period of less than thirteen consecutive weeks, and further that no extended benefit period may begin by reason of an "on" indicator before the fourteenth week after the close of a prior extended benefit period which was in effect with respect to this state.

(2)(a) There is an "on" indicator for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks:

(i) The rate of insured unemployment, not seasonally adjusted, equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years and equaled or exceeded five percent; or

(ii) For benefits for weeks of unemployment beginning after March 6, 1993:

(A) The average rate of total unemployment, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds six and one-half percent; and

(B) The average rate of total unemployment in the state, seasonally adjusted, as determined by the United States secretary of labor, for the three-month period referred to in (a)(ii)(A) of this subsection, equals or exceeds one hundred ten percent of the average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

(b) This subsection applies as provided under the tax relief, unemployment insurance reauthorization, and job creation act of 2010 (P.L. 111-312) as it existed on December 17, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this subsection:

(i) The average rate of insured unemployment, not seasonally adjusted, equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in all of the preceding three calendar years and equaled or exceeded five percent; or

(ii) The average rate of total unemployment, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds six and one-half percent; and

(iii) The average rate of total unemployment in the state, seasonally adjusted, as determined by the United States secretary of labor, for the three-month period referred to in (b)(ii) of this subsection, equals or exceeds one hundred ten percent of the average for any of the corresponding three-month periods ending in the three preceding calendar years.

(3)(a) "High unemployment period" means any period of unemployment beginning after March 6, 1993, during which an extended benefit period would be in effect if:

(i) The average rate of total unemployment, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of

the most recent three months for which data for all states are published before the close of the week equals or exceeds eight percent; and

(i) The average rate of total unemployment in the state, seasonally adjusted, as determined by the United States secretary of labor, for the three-month period referred to in (a)(i) of this subsection, equals or exceeds one hundred ten percent of the average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

(b) This subsection applies as provided under the tax relief, unemployment insurance reauthorization, and job creation act of 2010 (P.L. 111-312) as it existed on December 17, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this subsection:

(i) The average rate of total unemployment, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds eight percent; and

(ii) The average rate of total unemployment in the state, seasonally adjusted, as determined by the United States secretary of labor, for the three-month period referred to in (a)(i) of this subsection, equals or exceeds one hundred ten percent of the average for any of the corresponding three-month periods ending in the three preceding calendar years.

(4) There is an "off" indicator for this state for a week only if, for the period consisting of such week and immediately preceding twelve weeks, none of the options specified in subsection (2) or (3) of this section result in an "on" indicator.

(5) "Regular benefits" means benefits payable to an individual under this title or under any state law (including benefits payable to federal civilian employees and to ex-servicemen or ex-servicewomen pursuant to 5 U.S.C. chapter 85) other than extended benefits or additional benefits.

(6) "Extended benefits" means benefits payable for weeks of unemployment beginning in an extended benefit period to an individual under this title or under any state law (including benefits payable to federal civilian employees and to ex-servicemen or ex-servicewomen pursuant to 5 U.S.C. chapter 85) other than regular or additional benefits.

(7) "Additional benefits" are benefits totally financed by the state and payable under this title to exhaustees by reason of conditions of high unemployment or by reason of other special factors.

(8) "Eligibility period" of an individual means:

(a) ~~(The)~~ Except as provided in section 1 of this act, the period consisting of the weeks in his or her benefit year which begin in an extended benefit period that is in effect in this state and, if his or her benefit year ends within such extended benefit period, any weeks thereafter which begin in such period; or

(b) For an individual who is eligible for emergency unemployment compensation during the extended benefit period beginning February 15, 2009, the period consisting of the week ending February 28, 2009, and applies as provided under the tax relief, unemployment insurance reauthorization, and job creation act of 2010 (P.L. 111-312) as it existed on December 17, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this subsection.

(9) "Additional benefit eligibility period" of an individual means the period consisting of the weeks in his or her benefit year which begin in an additional benefit period that is in effect and, if his or her benefit year ends within such additional benefit period, any weeks thereafter which begin in such period.

(10) "Exhaustee" means an individual who, with respect to any week of unemployment in his or her eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were payable to him or her under this title or any other state law (including dependents' allowances and regular benefits payable to federal civilian employees and ex-servicemen or ex-servicewomen under 5 U.S.C. chapter 85) in his or her current benefit year that includes such week; or

(b) Has received, prior to such week, all of the regular benefits that were available to him or her under this title or any other state law (including dependents' allowances and regular benefits available to federal civilian employees and ex-servicemen or ex-servicewomen under 5 U.S.C. chapter 85) in his or her current benefit year that includes such week, after the cancellation of some or all of his or her wage credits or the total or partial reduction of his or her rights to regular benefits: PROVIDED, That, for the purposes of (a) and (b) of this subsection, an individual shall be deemed to have received in his or her current benefit year all of the regular benefits that were payable to him or her, or available to him or her, as the case may be, even though:

(i) As a result of a pending appeal with respect to wages or employment, or both, that were not included in the original monetary determination with respect to his or her current benefit year, he or she may subsequently be determined to be entitled to more regular benefits; or

(ii) By reason of the seasonal provisions of another state law, he or she is not entitled to regular benefits with respect to such week of unemployment (although he or she may be entitled to regular benefits with respect to future weeks of unemployment in the next season, as the case may be, in his or her current benefit year), and he or she is otherwise an exhaustee within the meaning of this section with respect to his or her right to regular benefits under such state law seasonal provisions during the season or off season in which that week of unemployment occurs; or

(iii) Having established a benefit year, no regular benefits are payable to him or her during such year because his or her wage credits were canceled or his or her right to regular benefits was totally reduced as the result of the application of a disqualification; or

(c) His or her benefit year having ended prior to such week, he or she has insufficient wages or employment, or both, on the basis of which he or she could establish in any state a new benefit year that would include such week, or having established a new benefit year that includes such week, he or she is precluded from receiving regular benefits by reason of the provision in RCW 50.04.030 which meets the requirement of section 3304(a)(7) of the federal unemployment tax act, or the similar provision in any other state law; and

(d)(i) Has no right for such week to unemployment benefits or allowances, as the case may be, under the railroad unemployment insurance act, the trade expansion act of 1962, and such other federal laws as are specified in regulations issued by the United States secretary of labor; and

(ii) Has not received and is not seeking for such week unemployment benefits under the unemployment compensation law of Canada, unless the appropriate agency finally determines that he or she is not entitled to unemployment benefits under such law for such week.

(11) "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the internal revenue code of 1954.

Sec. 3. RCW 50.22.020 and 1993 c 483 s 16 and 1993 c 58 s 3 are each reenacted and amended to read as follows:

When the result would not be inconsistent with the other provisions of this chapter, the provisions of this title and commissioner's regulations enacted pursuant thereto, which apply to claims for, or the payment of, regular benefits, shall apply to claims for, and the payment of, extended benefits: PROVIDED, That

(1) Payment of extended compensation under this chapter shall not be made to any individual for any week of unemployment in his or her eligibility period—

(a) During which he or she fails to accept any offer of suitable work (as defined in subsection (3) of this section) or fails to apply for any suitable work to which he or she was referred by the employment security department; or

(b) During which he or she fails to actively engage in seeking work.

(2) If any individual is ineligible for extended compensation for any week by reason of a failure described in subsections (1)(a) or (1)(b) of this section, the individual shall be ineligible to receive extended compensation for any week which begins during a period which—

(a) Begins with the week following the week in which such failure occurs; and

(b) Does not end until such individual has been employed during at least four weeks which begin after such failure and the total of the remuneration earned by the individual for being so employed is not less than the product of four multiplied by the individual's weekly benefit amount (as determined under RCW 50.20.120) for his or her benefit year.

(3) For purposes of this section, the term "suitable work" means, with respect to any individual, any work which is within such individual's capabilities and which does not involve conditions described in RCW 50.20.110: PROVIDED, That if the individual furnishes evidence satisfactory to the employment security department that such individual's prospects for obtaining work in his or her customary occupation within a reasonably short period are good, the determination of whether any work is suitable work with respect to such individual shall be made in accordance with RCW 50.20.100.

(4) Extended compensation shall not be denied under subsection (1)(a) of this section to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work if:

(a) The gross average weekly remuneration payable to such individual for the position does not exceed the sum of—

(i) The individual's weekly benefit amount (as determined under RCW 50.20.120) for his or her benefit year; plus

(ii) The amount (if any) of supplemental unemployment compensation benefits (as defined in section 501(c)(17)(D) of the Internal Revenue Code of 1954, 26 U.S.C. Sec. 501(c)(17)(D)), payable to such individual for such week;

(b) The position was not offered to such individual in writing (~~and~~) or was not listed with the employment security department;

(c) Such failure would not result in a denial of compensation under the provisions of RCW 50.20.080 and 50.20.100 to the extent such provisions are not inconsistent with the provisions of subsections (3) and (5) of this section; or

(d) The position pays wages less than the higher of—

(i) The minimum wage provided by section (6)(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or

(ii) Any applicable state or local minimum wage.

(5) For purposes of this section, an individual shall be treated as actively engaged in seeking work during any week if:

(a) The individual has engaged in a systematic and sustained effort to obtain work during such week; and

(b) The individual provides tangible evidence to the employment security department that he or she has engaged in such an effort during such week.

(6) The employment security department shall refer applicants for benefits under this chapter to any suitable work to which subsections (4)(a) through (4)(d) of this section would not apply.

(7) No provisions of this title which terminates a disqualification for voluntarily leaving employment, being discharged for misconduct, or refusing suitable employment shall apply for purposes of determining eligibility for extended compensation unless such termination is based upon employment subsequent to the date of such disqualification.

(8) The provisions of subsections (1) through (7) of this section shall apply with respect to weeks of unemployment beginning after March 31, 1981: PROVIDED HOWEVER, That the provisions of subsections (1) through (7) of this section shall not apply to those weeks of unemployment beginning after March 6, 1993, and before January 1, 1995.

NEW SECTION. Sec. 4. Section 1 of this act is remedial and curative in nature and applies retroactively and prospectively to the dates listed in that section.

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 March 8, 2021.

Passed by the House April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 108

[Senate Bill 5431]

ROSA FRANKLIN LEGISLATIVE INTERNSHIP PROGRAM SCHOLARSHIP

AN ACT Relating to creating the Rosa Franklin legislative internship program scholarship; amending RCW 43.79A.040; adding new sections to chapter 44.04 RCW; and adding a new section to chapter 42.52 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 44.04 RCW to read as follows:

The secretary of the senate and the chief clerk of the house of representatives may administer and conduct the Rosa Franklin legislative internship program scholarship to provide resources for Washington students who participate in the legislative internship program of the senate and house of representatives. The scholarship program should provide assistance to students, based on financial need, who are accepted as legislative interns. The program is called the Rosa Franklin legislative internship program scholarship.

NEW SECTION. Sec. 2. A new section is added to chapter 44.04 RCW to read as follows:

(1) The secretary of the senate and the chief clerk of the house of representatives may solicit and accept gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms. Any legislative member or legislative employee may solicit the same types of contributions for the secretary of the senate and the chief clerk of the house of representatives.

(2) Moneys received under this section may be used only for establishing and operating the Rosa Franklin legislative internship program scholarship authorized in section 1 of this act.

(3) Moneys received under this section must be deposited in the legislative internship program scholarship account established in section 3 of this act.

(4) The secretary of the senate and the chief clerk of the house of representatives must adopt joint rules to govern and protect the receipt and expenditure of the proceeds.

NEW SECTION. Sec. 3. A new section is added to chapter 44.04 RCW to read as follows:

The Rosa Franklin legislative internship program scholarship account is created in the custody of the state treasurer. All moneys received under section 2 of this act must be deposited in the account. Expenditures from the account may be made only for the purposes of the Rosa Franklin legislative internship program scholarship created in section 1 of this act. Only the secretary of the senate or the chief clerk of the house of representatives or their designee may authorize expenditures from the account. An appropriation is not required for expenditures, but the account is subject to allotment procedures under chapter 43.88 RCW.

NEW SECTION. Sec. 4. A new section is added to chapter 42.52 RCW to read as follows:

This chapter does not prohibit the secretary of the senate, the chief clerk of the house of representatives, or their designee from soliciting and accepting contributions to the Rosa Franklin legislative internship program scholarship account created in section 3 of this act. Furthermore, this chapter does not prohibit any legislative member or legislative employee from soliciting gifts for the Rosa Franklin legislative internship program scholarship account.

Sec. 5. RCW 43.79A.040 and 2020 c 18 s 2 are each amended to read as follows:

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

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

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

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

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Gina Grant Bull memorial legislative page scholarship account, the Rosa Franklin legislative internship program scholarship, 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 county road administration board emergency loan 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 educator conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation revolving loan program account, the multiagency permitting team account, the northeast Washington wolf-livestock management account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving

fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state library-archives building account, the reduced cigarette ignition propensity account, the center for deaf and hard of hearing youth account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, the public employees' and retirees' insurance account, the school employees' insurance account, the long-term services and supports trust account, the radiation perpetual maintenance fund, the Indian health improvement reinvestment account, the department of licensing tuition recovery trust fund, the student achievement council tuition recovery trust fund, the tuition recovery trust fund, the industrial insurance premium refund account, the mobile home park relocation fund, the natural resources deposit fund, the Washington state health insurance pool account, the federal forest revolving account, and the library operations account.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advance right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

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

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

Passed by the Senate February 26, 2021.

Passed by the House April 5, 2021.

Approved by the Governor April 16, 2021.

Filed in Office of Secretary of State April 16, 2021.

CHAPTER 109

[Engrossed Second Substitute House Bill 1073]

PAID FAMILY AND MEDICAL LEAVE—PANDEMIC LEAVE ASSISTANCE GRANTS

AN ACT Relating to expanding coverage of the paid family and medical leave program; adding a new section to chapter 50A.15 RCW; adding a new section to chapter 50A.24 RCW; creating new sections; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) The legislature finds that many Washington workers have suffered direct effects from the COVID-19 pandemic. Due to the unprecedented global shutdown in response to COVID-19, many Washington workers who have paid into the paid family and medical leave insurance program are unable to access their benefits through no fault of their own. Workers recovering from COVID-19 or caring for an individual who is severely ill due to COVID-19 are unable to access their benefits.

(2) Therefore, the legislature intends to provide financial assistance to workers who are not otherwise eligible for paid family and medical leave due to COVID-19's impact on their ability to meet the hours worked threshold. The legislature intends to provide a pandemic leave assistance employee grant to provide an equivalent benefit to what the worker would otherwise be eligible to receive under the paid family and medical leave insurance program. Additionally, the legislature intends to provide a pandemic leave assistance employer grant to help offset small business employers' costs related to employees on leave who are receiving a pandemic leave assistance employee grant.

(3) The legislature intends to utilize federal funding from the America rescue plan act to provide financial assistance to COVID-19 impacted workers. The legislature does not intend for this worker assistance to affect the state's paid family and medical leave insurance account.

NEW SECTION. Sec. 2. A new section is added to chapter 50A.15 RCW to read as follows:

(1) Employees who do not meet the hours worked threshold for eligibility under RCW 50A.15.010 or 50A.30.020(1), and are otherwise eligible under Title 50A RCW for a claim with an effective start date in 2021 through March 31, 2022, are eligible for a pandemic leave assistance employee grant as provided under this section if they meet any of the following hours thresholds:

(a) Worked 820 hours in employment during the first through fourth calendar quarters of 2019; or

(b) Worked 820 hours in employment during the second through fourth calendar quarters of 2019 and first calendar quarter of 2020.

(2)(a) Subsection (1) of this section does not apply to an employee who does not meet the hours worked threshold for eligibility under RCW 50A.15.010 or 50A.30.020(1) because of an employment separation due to misconduct or a voluntary separation unrelated to the COVID-19 pandemic.

(b) An employee seeking eligibility under this section must attest, in a manner prescribed by the department, that their failure to meet the hours worked threshold for eligibility under RCW 50A.15.010 or 50A.30.020(1) is not due to the reasons specified in (a) of this subsection.

(3) Employees may file a claim with the department for a pandemic leave assistance employee grant beginning August 1, 2021.

(4) The amount of the pandemic leave assistance employee grant to each eligible employee must be equal to the weekly benefit amount calculated in Title 50A RCW and any rules promulgated thereunder. In calculating the weekly benefit amount for nonsalaried employees eligible under subsection (1) of this section, the typical workweek hours are the quotient derived by dividing the sum of the employee's hours reported by the sum of the number of weeks for which the employer reported hours.

(5) An employee is not eligible for a pandemic leave assistance employee grant under this section for any week in which the employee has received, is receiving, or will receive unemployment compensation under Title 50 RCW, workers' compensation under Title 51 RCW, or any other applicable federal unemployment compensation, industrial insurance, or disability insurance laws.

(6) Employers with 150 or fewer employees may be eligible for a pandemic leave assistance employer grant to assist with the costs of an employee on leave, as provided in section 3 of this act.

(7) Grants under this section are available only until funding provided by the legislature solely for these purposes is exhausted.

NEW SECTION. Sec. 3. A new section is added to chapter 50A.24 RCW to read as follows:

(1) The legislature recognizes that costs associated with employees on leave who have received or will receive a pandemic leave assistance employee grant under section 2 of this act may disproportionately impact small businesses. Therefore, the legislature intends to assist small businesses with the costs of such employees on leave.

(2) Employers with 150 or fewer employees and employers with 50 or fewer employees who are assessed all premiums under RCW 50A.10.030(5)(b) may apply to the department for a pandemic leave assistance employer grant under this section.

(3)(a) An employer may receive a pandemic leave assistance employer grant of \$3,000 if the employer hires a temporary worker to replace an employee on leave who has received or will receive a pandemic leave assistance employee grant under section 2 of this act.

(b) For an employee on leave who has received or will receive a pandemic leave assistance employee grant under section 2 of this act, an employer may receive a grant of up to \$1,000 as reimbursement for significant wage-related costs due to the employee's leave.

(c) An employer may receive a grant under (a) or (b) of this subsection, but not both, except that an employer who received a grant under (b) of this subsection may receive a grant of the difference between the grant awarded under (b) of this subsection and \$3,000 if the employee on leave who has received or will receive a pandemic leave assistance grant under section 2 of this act extended the leave beyond the leave initially planned and the employer hired a temporary worker for the employee on leave.

(4) An employer may apply for a pandemic leave assistance employer grant no more than once.

(5) To be eligible for a pandemic leave assistance employer grant under this section, the employer must provide the department written documentation showing the temporary worker hired or significant wage-related costs incurred are due to an employee on leave who has received or will receive a pandemic leave assistance employee grant under section 2 of this act.

(6) The department must assess an employer with fewer than 50 employees who receives a pandemic leave assistance employer grant under this section for all premiums for three years from the date of receipt of the grant.

(7) Pandemic leave assistance employer grants shall not be funded from the family and medical leave insurance account.

(8) For the purposes of this section, the number of employees must be calculated as provided in RCW 50A.10.030.

(9) An employer who has an approved voluntary plan is not eligible to receive a pandemic leave assistance employer grant under this section.

(10) Grants under this section are available only until funding provided by the legislature solely for these purposes is exhausted.

NEW SECTION. **Sec. 4.** Nothing in this act shall be construed to limit or interfere with the requirements, rights, and responsibilities of employers and employees under Title 50A RCW, except as provided in this act. Employees and employers receiving a grant under section 2 or 3 of this act must comply with all provisions of Title 50A RCW and any rules promulgated thereunder.

NEW SECTION. **Sec. 5.** The employment security department may adopt rules to implement this act.

NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act expire June 30, 2023.

NEW SECTION. **Sec. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House April 13, 2021.

Passed by the Senate April 7, 2021.

Approved by the Governor April 21, 2021.

Filed in Office of Secretary of State April 21, 2021.

CHAPTER 110

[House Bill 1143]

TEMPORARY TRUST WATER RIGHT DONATIONS—WALLA WALLA PILOT LOCAL WATER MANAGEMENT PROGRAM

AN ACT Relating to authorizing the placement of water rights banked pursuant to RCW 90.92.070 into the trust water rights program; amending RCW 90.42.080; and declaring an emergency.

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

Sec. 1. RCW 90.42.080 and 2009 c 283 s 5 are each amended to read as follows:

(1)(a) The state may acquire all or portions of existing surface water or groundwater rights, by purchase, gift, or other appropriate means other than by condemnation, from any person or entity or combination of persons or entities. Once acquired, such rights are trust water rights. A water right acquired by the state that is expressly conditioned to limit its use to instream purposes shall be administered as a trust water right in compliance with that condition.

(b) If the holder of a right to surface water or groundwater chooses to donate all or a portion of the person's water right to the trust water system to assist in providing instream flows or to preserve surface water or groundwater resources on a temporary or permanent basis, the department shall accept the donation on such terms as the person may prescribe as long as the donation satisfies the requirements of subsection (4) of this section and the other applicable requirements of this chapter and the terms prescribed are relevant and material to

protecting any interest in the water right retained by the donor. Once accepted, such rights are trust water rights within the conditions prescribed by the donor.

(2) The department may enter into leases, contracts, or such other arrangements with other persons or entities as appropriate, to ensure that trust water rights acquired in accordance with this chapter may be exercised to the fullest possible extent.

(3) Trust water rights may be acquired by the state on a temporary or permanent basis.

(4) Except as provided in subsections (10) (~~and~~), (11), and (12) of this section, a water right donated under subsection (1)(b) of this section shall not exceed the extent to which the water right was exercised during the five years before the donation nor may the total of any portion of the water right remaining with the donor plus the donated portion of the water right exceed the extent to which the water right was exercised during the five years before the donation. A water right holder who believes his or her water right has been impaired by a trust water right donated under subsection (1)(b) of this section may request that the department review the impairment claim. If the department determines that a trust water right resulting from a donation under subsection (1)(b) of this section is impairing existing water rights in violation of RCW 90.42.070, the trust water right shall be altered by the department to eliminate the impairment. Any decision of the department to alter or not to alter a trust water right donated under subsection (1)(b) of this section is appealable to the pollution control hearings board under RCW 43.21B.230. A donated water right's status as a trust water right under this subsection is not evidence of the validity or quantity of the water right.

(5) The provisions of RCW 90.03.380 and 90.03.390 do not apply to donations for instream flows described in subsection (1)(b) of this section, but do apply to other transfers of water rights under this section except that the consumptive quantity of a trust water right acquired by the state and held or authorized for use by the department is equal to the consumptive quantity of the right prior to transfer into the trust water rights program.

(6) No funds may be expended for the purchase of water rights by the state pursuant to this section unless specifically appropriated for this purpose by the legislature.

(7) Any water right conveyed to the trust water right system as a gift that is expressly conditioned to limit its use to instream purposes shall be managed by the department for public purposes to ensure that it qualifies as a gift that is deductible for federal income taxation purposes for the person or entity conveying the water right.

(8) Except as provided in subsections (10) and (11) of this section, if the department acquires a trust water right by lease, the amount of the trust water right shall not exceed the extent to which the water right was exercised during the five years before the acquisition was made nor may the total of any portion of the water right remaining with the original water right holder plus the portion of the water right leased by the department exceed the extent to which the water right was exercised during the five years before the acquisition. A water right holder who believes his or her water right has been impaired by a trust water right leased under this subsection may request that the department review the impairment claim. If the department determines that a trust water right resulting

from the leasing of that trust water right leased under this subsection is impairing existing water rights in violation of RCW 90.42.070, the trust water right shall be altered by the department to eliminate the impairment. Any decision of the department to alter or not to alter a trust water right leased under this subsection is appealable to the pollution control hearings board under RCW 43.21B.230. The department's leasing of a trust water right under this subsection is not evidence of the validity or quantity of the water right.

(9) For a water right donated to or acquired by the trust water rights program on a temporary basis, the full quantity of water diverted or withdrawn to exercise the right before the donation or acquisition shall be placed in the trust water rights program and shall revert to the donor or person from whom it was acquired when the trust period ends. For a trust water right acquired by the state and held or authorized for use by the department, the consumptive quantity of the right when it reverts to the donor or person from whom it was acquired is equal to the consumptive quantity of the right prior to transfer into the trust water rights program.

(10) For water rights donated or leased under subsection (4) or (8) of this section where nonuse of the water right is excused under RCW 90.14.140(1):

(a) The department shall calculate the amount of water eligible to be acquired by looking at the extent to which the right was exercised during the most recent five-year period preceding the date where nonuse of the water right was excused under RCW 90.14.140(1); and

(b) The total of the donated or leased portion of the water right and the portion of the water right remaining with the water right holder shall not exceed the extent to which the water right was exercised during the most recent five-year period preceding the date nonuse of the water right was excused under RCW 90.14.140(1).

(11) For water rights donated or leased under subsection (4) or (8) of this section where nonuse of the water right is exempt under RCW 90.14.140(2) (a) or (d):

(a) The amount of water eligible to be acquired shall be based on historical beneficial use; and

(b) The total of the donated or leased portion of the water right and the portion of the water right the water right holder continues to use shall not exceed the historical beneficial use of that right during the duration of the trust.

(12) Upon a request made by a water right holder to the department on or before June 30, 2021, a water right banked pursuant to RCW 90.92.070, as that section existed on April 15, 2021, must be accepted by the department as a temporary trust water right donation for a period of up to two years, in the same quantity that the water right was banked pursuant to RCW 90.92.070.

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 February 24, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor April 21, 2021.

Filed in Office of Secretary of State April 21, 2021.

CHAPTER 111

[Substitute House Bill 1208]

LEARNING ASSISTANCE PROGRAM—VARIOUS PROVISIONS

AN ACT Relating to modifying the learning assistance program to enable school districts to focus on identifying and addressing student academic deficits in basic skills resulting from or exacerbated by the COVID-19 pandemic by granting greater local control over, accountability for, and flexibility with program funds, and to authorize continued flexible use of program funds through the framework of the Washington integrated student supports protocol; amending RCW 28A.300.139, 28A.165.005, 28A.165.015, 28A.165.065, 28A.165.100, 28A.300.130, 28A.305.130, 28A.320.190, and 28A.710.280; adding new sections to chapter 28A.165 RCW; creating new sections; repealing RCW 28A.165.035; providing a contingent effective date; providing a contingent expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) The legislature acknowledges that the learning assistance program was developed to provide supplemental instruction and services for public school students who are not meeting academic standards. Initially, school districts were allowed to use learning assistance program funds in a flexible manner to support students participating in the program. Over time, the legislature restricted, and established priorities for, the use of learning assistance program funds. The legislature finds that it is time to restore flexibility to the use of learning assistance program funds; however, local control must be balanced with accountability for improvement in the academic achievement of students participating in the program.

(2)(a) The legislature expects that the learning assistance program will continue to be used to fund supplemental instruction and service to eligible students who are not meeting academic standards.

(b) However, the legislature intends to immediately remove restrictions on the use of learning assistance program funds so that school districts can flexibly use these funds to identify and address the academic and nonacademic needs of students resulting from and exacerbated by the COVID-19 pandemic. Removal of the restrictions does not mean that learning assistance programs cannot continue to use the best practices and strategies included on the state menus or the services and activities listed in RCW 28A.165.035, as repealed by this act.

(3)(a) Beginning September 1, 2025, or following the end of the state of emergency declared by the governor due to COVID-19, whichever is later, the legislature intends to continue the flexible use of learning assistance program funds but require that budgeting and expenditure of these funds occur through the framework of the Washington integrated student supports protocol, established by the legislature in 2016.

(b) To ease the transition, the legislature recommends that school district boards of directors begin budgeting and expending learning assistance program funds using the Washington integrated student supports protocol as soon as possible.

(c) Under the protocol, before engaging in the process of budgeting and expending learning assistance program funds, the legislature expects school district boards of directors to perform needs assessments and use data to map the resources of the school district, each school, and the community. School boards are expected to identify gaps in the coordination and integration of academic and nonacademic supports and to engage community partners in strategic planning that prioritizes the needs of students. Each school in the district is also expected

to use needs assessments and data to determine how to best engage community partners to address the academic and nonacademic needs of its students in an integrated and coordinated manner. Finally, the legislature expects that schools and school districts will use data in an iterative process to drive decisions about how learning assistance program funds continue to be used, and to determine whether decisions about the use of program funds resulted in improvement in students' academic achievement.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.165 RCW to be codified between RCW 28A.165.005 and 28A.165.065 to read as follows:

(1) Immediately upon the effective date of this section and through the later of: (a) The expiration or termination of Proclamation 20-05, and any subsequent orders extending or amending the proclamation, declaring a state of emergency on February 29, 2020, for all counties in Washington due to COVID-19; or (b) September 1, 2025, school districts must budget and expend the appropriations for the learning assistance program, under RCW 28A.165.005 through 28A.165.065, to identify and address the academic and nonacademic needs of students resulting from and exacerbated by the COVID-19 pandemic.

(2) During the time period described in subsection (1) of this section, school districts are encouraged to budget and expend the appropriations for the learning assistance program, under RCW 28A.165.005 through 28A.165.065, using the framework of the Washington integrated student supports protocol, established under RCW 28A.300.139.

(3) If a school district elects to budget and expend learning assistance program funds using the framework of the Washington integrated student supports protocol, a district may use up to 15 percent of the district's learning assistance program allocation to deliver academic, nonacademic, and social-emotional supports and services to students through partnerships with community-based or other out-of-school organizations in accordance with RCW 28A.300.139. Any agreement entered into by a school district and a community partner in accordance with RCW 28A.300.139 must:

(a) Specify that learning assistance program funds may be used only to provide direct supports and services to students;

(b) Clearly identify the academic, nonacademic, or social-emotional supports and services that will be made available to students by the community partner and how those supports and services align to the needs of the students as identified in the student-level needs assessment required by RCW 28A.300.139; and

(c) Identify the in-school supports that will be reinforced by the supports and services provided by the community partner to promote student progress towards meeting academic standards.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.165 RCW to be codified between RCW 28A.165.005 and 28A.165.065 to read as follows:

(1) While the state allocations for the learning assistance program under this chapter are intended to be flexible dollars within the control of the public school and school district, this local control must be balanced with local accountability for improvement in student achievement.

(2) School district boards of directors must budget and expend the appropriations for the learning assistance program, under RCW 28A.165.005

through 28A.165.065, using the framework of the Washington integrated student supports protocol, established under RCW 28A.300.139.

(3) A district may use up to 15 percent of the district's learning assistance program allocation to deliver academic, nonacademic, and social-emotional supports and services to students through partnerships with community-based or other out-of-school organizations in accordance with RCW 28A.300.139. Any agreement entered into by a school district and a community partner in accordance with RCW 28A.300.139 must:

(a) Specify that learning assistance program funds may be used only to provide direct supports and services to students;

(b) Clearly identify the academic, nonacademic, or social-emotional supports and services that will be made available to students by the community partner and how those supports and services align to the needs of the students as identified in the student-level needs assessment required by RCW 28A.300.139; and

(c) Identify the in-school supports that will be reinforced by the supports and services provided by the community partner to promote student progress towards meeting academic standards.

Sec. 4. RCW 28A.300.139 and 2016 c 72 s 801 are each amended to read as follows:

(1) ~~((Subject to the availability of amounts appropriated for this specific purpose, the))~~ The Washington integrated student supports protocol is established. The protocol shall be developed by the center for the improvement of student learning, established in RCW 28A.300.130, based on the framework described in this section. The purposes of the protocol include:

(a) Supporting a school-based approach to promoting the success of all students by coordinating academic and nonacademic supports to reduce barriers to academic achievement and educational attainment;

(b) Fulfilling a vision of public education where educators focus on education, students focus on learning, and auxiliary supports enable teaching and learning to occur unimpeded;

(c) Encouraging the creation, expansion, and quality improvement of community-based supports that can be integrated into the academic environment of schools and school districts;

(d) Increasing public awareness of the evidence showing that academic outcomes are a result of both academic and nonacademic factors; and

(e) Supporting statewide and local organizations in their efforts to provide leadership, coordination, technical assistance, professional development, and advocacy to implement high-quality, evidence-based, student-centered, coordinated approaches throughout the state.

(2)(a) The Washington integrated student supports protocol must be sufficiently flexible to adapt to the unique needs of schools and districts across the state, yet sufficiently structured to provide all students with the individual support they need for academic success.

(b) The essential framework of the Washington integrated student supports protocol includes:

(i) Needs assessments: A system-level needs assessment with resource mapping must be conducted in order to identify academic and nonacademic supports that are currently available or lacking in schools, school districts, and

the community. A student-level needs assessment must be conducted for all at-risk students in order to develop or identify the needed academic and nonacademic supports within the students' school and community. These supports must be coordinated to provide students with a package of mutually reinforcing supports designed to meet the individual needs of each student.

(ii) Integration and coordination: The school and district leadership and staff must ~~((develop close relationships))~~ establish clear, cooperative policies and procedures with community-based and other out-of-school providers of academic and nonacademic supports to enhance the effectiveness of the protocol.

(iii) Community partnerships: Community partners must be engaged to provide academic, nonacademic, and social-emotional supports to reduce barriers to students' academic success, including supports to students' families.

(iv) Data driven: Students' needs and outcomes must be tracked over time to determine student progress and evolving needs.

(c) The framework must facilitate the ability of any academic or nonacademic provider to support the needs of at-risk students, including, but not limited to: Out-of-school providers, social workers, mental health counselors, physicians, dentists, speech therapists, and audiologists.

Sec. 5. RCW 28A.165.005 and 2017 3rd sp.s. c 13 s 403 are each amended to read as follows:

~~((1))~~ This chapter is designed to: ~~((a))~~ (1) Promote the use of data when developing programs to assist students who are not meeting academic standards ~~((and reduce disruptive behaviors in the classroom))~~; and ~~((b))~~ (2) guide school districts in providing the most effective and efficient practices when implementing supplemental instruction and services to assist students who are not meeting academic standards ~~((and reduce disruptive behaviors in the classroom))~~.

~~((2) School districts implementing a learning assistance program shall focus first on addressing the needs of students in grades kindergarten through four who are deficient in reading or reading readiness skills to improve reading literacy.))~~

Sec. 6. RCW 28A.165.015 and 2017 3rd sp.s. c 13 s 404 are each amended to read as follows:

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

(1) "Basic skills areas" means reading, writing, and mathematics as well as readiness associated with these skills.

(2) ~~((("Participating student" means a student in kindergarten through grade twelve who scores below standard for his or her grade level using multiple measures of performance, including on the statewide student assessments or other assessments and performance measurement tools administered by the school or district and who is identified by the district to receive services.))~~

~~((3))~~ "Statewide student assessments" means one or more of the assessments administered by school districts as required under RCW 28A.655.070.

~~((4))~~ (3) "Students who are not meeting academic standards" means students with the greatest academic deficits in basic skills as identified by

statewide, school, or district assessments or other performance measurement tools.

Sec. 7. RCW 28A.165.065 and 2013 2nd sp.s. c 18 s 206 are each amended to read as follows:

To ensure that school districts are meeting the requirements of this chapter, the superintendent of public instruction shall monitor learning assistance programs using, at minimum, data reported as required under RCW 28A.165.100, no less than once every four years. The primary purpose of program monitoring is to evaluate the effectiveness of a school district's allocation and expenditure of resources and monitor school district fidelity in implementing best practices using the framework of the Washington integrated student supports protocol, established under RCW 28A.300.139. The office of the superintendent of public instruction may provide technical assistance to school districts to improve the effectiveness of a learning assistance program.

Sec. 8. RCW 28A.165.100 and 2019 c 208 s 1 are each amended to read as follows:

(1) 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~~) Annually, 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;

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

(d) The percentage of learning assistance program funding used to engage community partners, the number of students receiving direct supports and services from those community partners, and the types of supports and services; and

(e) 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 including indicators aligned with the accountability framework for schools receiving support under RCW 28A.657.110.

(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 as described in RCW 28A.300.042(1) for student-level data.

Sec. 9. RCW 28A.300.130 and 2016 c 72 s 804 are each amended to read as follows:

Provisions in subsections (1) through (5) of this section are subject to the availability of amounts appropriated for these specific purposes.

(1) To facilitate access to information and materials on educational improvement and research, the superintendent of public instruction (~~(, subject to the availability of amounts appropriated for this specific purpose,)~~) shall establish the center for the improvement of student learning. The center shall work in conjunction with parents, educational service districts, institutions of higher education, and education, parent, community, and business organizations.

(2) The center, (~~(subject to the availability of amounts appropriated for this specific purpose, and)~~) in conjunction with other staff in the office of the superintendent of public instruction, shall:

(a) Serve as a clearinghouse for information regarding successful educational improvement and parental involvement programs in schools and districts, and information about efforts within institutions of higher education in the state to support educational improvement initiatives in Washington schools and districts;

(b) Provide best practices research that can be used to help schools develop and implement: Programs and practices to improve instruction; systems to analyze student assessment data, with an emphasis on systems that will combine the use of state and local data to monitor the academic progress of each and every student in the school district; comprehensive, school-wide improvement plans; school-based shared decision-making models; programs to promote lifelong learning and community involvement in education; school-to-work transition programs; programs to meet the needs of highly capable students; programs and practices to meet the needs of students with disabilities; programs and practices to meet the diverse needs of students based on gender, racial, ethnic, economic, and special needs status; research, information, and technology systems; and other programs and practices that will assist educators in helping students learn the essential academic learning requirements;

(c) Periodically review the efficacy of programs and practices designed to meet the needs of students who are not meeting academic standards as defined in RCW 28A.165.015, starting with the best practices and strategies included on the state menus developed under RCW 28A.165.035, as repealed by this act, and RCW 28A.655.235, and the services and activities listed in RCW 28A.165.035, as repealed by this act;

~~(d)~~ Develop and maintain an internet web site to increase the availability of information, research, and other materials;

~~((d))~~ ~~(e)~~ Work with appropriate organizations to inform teachers, district and school administrators, and school directors about the waivers available and the broadened school board powers under RCW 28A.320.015;

~~((e))~~ ~~(f)~~ Provide training and consultation services, including conducting regional summer institutes;

~~((f))~~ ~~(g)~~ Identify strategies for improving the success rates of ethnic and racial student groups and students with disabilities, with disproportionate academic achievement;

~~((g))~~ ~~(h)~~ Work with parents, teachers, and school districts in establishing a model absentee notification procedure that will properly notify parents when their student has not attended a class or has missed a school day. The office of the superintendent of public instruction shall consider various types of

communication with parents including, but not limited to, email, phone, and postal mail; ~~(and~~

~~(h))~~ (i) By December 1, 2026, and by December 1st annually thereafter: (i) Review the learning assistance program information submitted as required by RCW 28A.165.100; and (ii) report to the appropriate committees of the legislature with a summary of the innovations made by school districts to reduce barriers to the academic achievement of students participating in the learning assistance program; and

(j) Perform other functions consistent with the purpose of the center as prescribed in subsection (1) of this section.

(3) The superintendent of public instruction shall select and employ a director for the center.

(4) The superintendent may enter into contracts with individuals or organizations including but not limited to: School districts; educational service districts; educational organizations; teachers; higher education faculty; institutions of higher education; state agencies; business or community-based organizations; and other individuals and organizations to accomplish the duties and responsibilities of the center. In carrying out the duties and responsibilities of the center, the superintendent, whenever possible, shall use practitioners to assist agency staff as well as assist educators and others in schools and districts.

(5) The office of the superintendent of public instruction shall report to the legislature by September 1, 2007, and thereafter biennially, regarding the effectiveness of the center for the improvement of student learning, how the services provided by the center for the improvement of student learning have been used and by whom, and recommendations to improve the accessibility and application of knowledge and information that leads to improved student learning and greater family and community involvement in the public education system.

Sec. 10. RCW 28A.305.130 and 2019 c 252 s 112 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~~) who are not meeting academic standards as defined in RCW 28A.165.015, disaggregated as described in RCW 28A.300.042(1) for student-level data. 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 RCW 28A.655.250. 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;

(ii) The legislature intends to continue the implementation of chapter 22, Laws of 2013 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;

(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) Accredite, 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. 11. RCW 28A.320.190 and 2019 c 252 s 113 are each amended to read as follows:

(1) The extended learning opportunities program is created for eligible ~~((eleventh and))~~ ninth through 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(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) Attendance in a public high school or public alternative school classes or at a skill center;
- (c) Inclusion in remediation programs, including summer school;
- (d) Language development instruction for English language learners;
- (e) Online curriculum and instructional support, including programs for credit retrieval and statewide student assessment preparatory classes; and
- (f) Reading improvement specialists available at the educational service districts to serve eighth(~~(, eleventh, and)~~) through 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. 12. RCW 28A.710.280 and 2018 c 266 s 403 are each amended to read as follows:

(1) The legislature intends that state funding for charter schools be distributed equitably with state funding provided for other public schools.

(2) For eligible students enrolled in a charter school established and operating in accordance with this chapter, the superintendent of public instruction shall transmit to each charter school an amount calculated as provided in this section and based on the statewide average salaries set forth in RCW 28A.150.410 for certificated instructional staff adjusted by the regionalization factor that applies to the school district in which the charter school is geographically located, including any enrichment to those statutory formulae that is specified in the omnibus appropriations act. The amount must be the sum of (a) and (b) of this subsection.

(a) The superintendent shall, for purposes of making distributions under this section, separately calculate and distribute to charter schools moneys appropriated for general apportionment under the same ratios as in RCW 28A.150.260.

(b) The superintendent also shall, for purposes of making distributions under this section, and in accordance with the applicable formulae for categorical programs specified in (b)(i) through (v) of this subsection (2) and any enrichment to those statutory formulae that is specified in the omnibus appropriations act, separately calculate and distribute moneys appropriated by the legislature to charter schools for:

(i) Supplemental instruction and services for (~~underachieving~~) students who are not meeting academic standards through the learning assistance program under RCW 28A.165.005 through 28A.165.065;

(ii) Supplemental instruction and services for eligible and enrolled students and exited students whose primary language is other than English through the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080;

(iii) The opportunity for an appropriate education at public expense as defined by RCW 28A.155.020 for all eligible students with disabilities as defined in RCW 28A.155.020;

(iv) Programs for highly capable students under RCW 28A.185.010 through 28A.185.030; and

(v) Pupil transportation services to and from school in accordance with RCW 28A.160.150 through 28A.160.180. Distributions for pupil transportation must be calculated on a per eligible student basis based on the allocation for the previous school year to the school district in which the charter school is located.

(3) The superintendent of public instruction must adopt rules necessary for the distribution of funding required by this section and to comply with federal reporting requirements.

NEW SECTION. Sec. 13. RCW 28A.165.035 (Program activities—Partnerships with local entities—Development and use of state menus of best practices and strategies) and 2018 c 75 s 7, 2016 c 72 s 803, 2013 2nd sp.s. c 18 s 203, 2008 c 321 s 4, & 2004 c 20 s 4 are each repealed.

NEW SECTION. Sec. 14. Section 2 of this act expires at the later of either: (1) The expiration or termination of Proclamation 20-05, and any subsequent orders extending or amending the proclamation, declaring a state of emergency on February 29, 2020, for all counties in Washington due to COVID-19; or (2) September 1, 2025.

NEW SECTION. Sec. 15. Section 3 of this act takes effect at the later of either: (1) The expiration or termination of Proclamation 20-05, and any subsequent orders extending or amending the proclamation, declaring a state of emergency on February 29, 2020, for all counties in Washington due to COVID-19; or (2) September 1, 2025.

NEW SECTION. Sec. 16. The office of the governor must provide written notice of the expiration date of section 2 of this act and the effective date of section 3 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 office of the governor.

NEW SECTION. Sec. 17. 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 13, 2021.

Passed by the Senate April 9, 2021.

Approved by the Governor April 21, 2021.

Filed in Office of Secretary of State April 21, 2021.

CHAPTER 112

[Substitute House Bill 1279]

MAIN STREET TAX INCENTIVE PROGRAM—COVID-19

AN ACT Relating to modifying the Washington main street program tax incentive to respond to the economic impacts of the COVID-19 pandemic; amending RCW 82.73.030; adding a new section to chapter 82.73 RCW; creating a new section; repealing 2017 3rd sp.s. c 37 s 1406 (uncodified); providing an effective date; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature finds that as a result of the economic impacts of the COVID-19 pandemic, certain businesses that made contributions to a Washington main street community or to the main street trust fund in 2020, and qualified for a credit against the business and occupation tax or public utility tax, have received insufficient revenues, and have insufficient tax liabilities, to allow them to use the full amount of the credit for which they have qualified. With this act, the legislature intends to address this finding by allowing credits earned as result of contributions made in calendar year 2020 to be carried over for an additional two years, and by providing an additional credit against the business and occupation tax or public utility tax.

Sec. 2. RCW 82.73.030 and 2017 3rd sp.s. c 37 s 103 are each amended to read as follows:

(1) Subject to the limitations in this chapter, a credit is allowed against the tax imposed by chapters 82.04 and 82.16 RCW for approved contributions that are made by a person to a program or the main street trust fund.

(2) ~~((The))~~ (a) Except as provided in (b) of this subsection, the credit allowed under this section is limited to an amount equal to:

~~((a))~~ (i) Seventy-five percent of the approved contribution made by a person to a program; or

~~((b))~~ (ii) Fifty percent of the approved contribution made by a person to the main street trust fund.

(b) Beginning with contributions made in calendar year 2021, an additional credit is allowed equal to 25 percent of the approved contribution made by a person to the main street trust fund.

(3) The department may not approve credit with respect to a program in a city or town with a population of one hundred ninety thousand persons or more.

(4) The department must keep a running total of all credits approved under this chapter for each calendar year. The department may not approve any credits under this section that would cause the total amount of approved credits statewide to exceed ~~((two million five hundred thousand dollars))~~ \$5,000,000 in any calendar year.

(5)(a)(i) The total credits allowed under this chapter for contributions made to each program may not exceed ~~((one hundred thousand dollars))~~ \$160,000 in a calendar year.

(ii) Between 8:00 a.m., Pacific standard time, on the second Monday in January and ((March 31st)) 8:00 a.m., Pacific daylight time, on April 1st of the same calendar year, the department must evenly allocate the amount of statewide credits allowed under subsection (4) of this section based on the total number of programs and the main street trust fund as of January 1st in the same calendar year. The department may not approve contributions for a program or the main

street trust fund that would cause the total amount of approved credits for a program or the main street trust fund to exceed the allocated amount.

(b) The total credits allowed under this chapter for a person may not exceed two hundred fifty thousand dollars in a calendar year.

(6) ~~((The))~~ Except as provided in subsection (8) of this section, the credit may be claimed against any tax due under chapters 82.04 and 82.16 RCW only in the calendar year immediately following the calendar year in which the credit was approved by the department and the contribution was made to the program or the main street trust fund. Credits may not be carried over to subsequent years. No refunds may be granted for credits under this chapter.

(7) The total amount of the credit claimed in any calendar year by a person may not exceed the lesser amount of:

(a) The approved credit; or

(b) Seventy-five percent of the amount of the contribution that is made by the person to a program and ~~((fifty))~~ 75 percent of the amount of the contribution that is made by the person to the main street trust fund, in the prior calendar year.

(8) Any credits provided in accordance with this chapter for approved contributions made in calendar year 2020 may be carried over for an additional two years and must be used by December 31, 2023.

(9) No credit is allowed or may be claimed under this section on or after January 1, 2032.

NEW SECTION. Sec. 3. A new section is added to chapter 82.73 RCW to read as follows:

This chapter expires January 1, 2032.

NEW SECTION. Sec. 4. Sections 2 and 3 of this act take effect October 1, 2021.

NEW SECTION. Sec. 5. 2017 3rd sp.s. c 37 s 1406 (uncodified) is repealed.

Passed by the House April 14, 2021.

Passed by the Senate April 7, 2021.

Approved by the Governor April 21, 2021.

Filed in Office of Secretary of State April 21, 2021.

CHAPTER 113

[Substitute House Bill 1323]

LONG-TERM SERVICES AND SUPPORTS TRUST PROGRAM—VARIOUS PROVISIONS

AN ACT Relating to the long-term services and supports trust program; amending RCW 50B.04.010, 50B.04.020, 50B.04.030, 50B.04.050, 50B.04.085, and 50B.04.090; and adding a new section to chapter 50B.04 RCW.

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

Sec. 1. RCW 50B.04.010 and 2020 c 98 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) "Account" means the long-term services and supports trust account created in RCW 50B.04.100.

(2) "Approved service" means long-term services and supports including, but not limited to:

- (a) Adult day services;
- (b) Care transition coordination;
- (c) Memory care;
- (d) Adaptive equipment and technology;
- (e) Environmental modification;
- (f) Personal emergency response system;
- (g) Home safety evaluation;
- (h) Respite for family caregivers;
- (i) Home delivered meals;
- (j) Transportation;
- (k) Dementia supports;
- (l) Education and consultation;
- (m) Eligible relative care;
- (n) Professional services;

(o) Services that assist paid and unpaid family members caring for eligible individuals, including training for individuals providing care who are not otherwise employed as long-term care workers under RCW 74.39A.074;

- (p) In-home personal care;
- (q) Assisted living services;
- (r) Adult family home services; and
- (s) Nursing home services.

(3) "Benefit unit" means up to one hundred dollars paid by the department of social and health services to a long-term services and supports provider as reimbursement for approved services provided to an eligible beneficiary on a specific date. The benefit unit must be adjusted annually at a rate no greater than the Washington state consumer price index, as determined solely by the council. Any changes adopted by the council shall be subject to revision by the legislature.

(4) "Commission" means the long-term services and supports trust commission established in RCW 50B.04.030.

(5) "Council" means the long-term services and supports trust council established in RCW 50B.04.040.

(6) "Eligible beneficiary" means a qualified individual who is age eighteen or older, residing in the state of Washington, (~~was not disabled before the age of eighteen,~~) has been determined to meet the minimum level of assistance with activities of daily living necessary to receive benefits through the trust program, as established in this chapter, and (~~who~~) has not exhausted the lifetime limit of benefit units.

(7) "Employee" has the meaning provided in RCW 50A.05.010.

(8) "Employer" has the meaning provided in RCW 50A.05.010.

(9) "Employment" has the meaning provided in RCW 50A.05.010.

(10) "Exempt employee" means a person who has been granted a premium assessment exemption by the employment security department.

(11) "Long-term services and supports provider" means an entity that meets the qualifications applicable in law to the approved service they provide, including a qualified or certified home care aide, licensed assisted living facility, licensed adult family home, licensed nursing home, licensed in-home services

agency, adult day services program, vendor, instructor, qualified family member, or other entities as registered by the department of social and health services.

~~((11))~~ (12) "Premium" or "premiums" means the payments required by RCW 50B.04.080 and paid to the employment security department for deposit in the account created in RCW 50B.04.100.

~~((12))~~ (13) "Program" means the long-term services and supports trust program established in this chapter.

~~((13))~~ (14) "Qualified family member" means a relative of an eligible beneficiary qualified to meet requirements established in state law for the approved service they provide that would be required of any other long-term services and supports provider to receive payments from the state.

~~((14))~~ (15) "Qualified individual" means an individual who meets the duration of payment requirements, as established in this chapter.

~~((15))~~ (16) "State actuary" means the office of the state actuary created in RCW 44.44.010.

~~((16))~~ (17) "Wage or wages" means all remuneration paid by an employer to an employee. Remuneration has the meaning provided in RCW 50A.05.010. All wages are subject to a premium assessment and not limited by the commissioner of the employment security department, as provided under RCW 50A.10.030(4).

~~((17) "Exempt employee" means a person who has been granted a premium assessment exemption by the employment security department.)~~

Sec. 2. RCW 50B.04.020 and 2020 c 98 s 2 are each amended to read as follows:

(1) The health care authority, the department of social and health services, the office of the state actuary, and the employment security department each have distinct responsibilities in the implementation and administration of the program. In the performance of their activities, they shall actively collaborate to realize program efficiencies and provide persons served by the program with a well-coordinated experience.

(2) The health care authority shall:

(a) Track the use of lifetime benefit units to verify the individual's status as an eligible beneficiary as determined by the department of social and health services;

(b) Ensure approved services are provided through audits or service verification processes within the service provider payment system for registered long-term services and supports providers and recoup any inappropriate payments;

(c) Establish criteria for the payment of benefits to registered long-term services and supports providers under RCW 50B.04.070;

(d) Establish rules and procedures for benefit coordination when the eligible beneficiary is also funded for medicaid and other long-term services and supports, including medicare, coverage through the department of labor and industries, and private long-term care coverage; and

(e) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program.

(3) The department of social and health services shall:

(a) Make determinations regarding an individual's status as an eligible beneficiary under RCW 50B.04.060;

(b) Approve long-term services and supports eligible for payment as approved services under the program, as informed by the commission;

(c) Register long-term services and supports providers that meet minimum qualifications;

(d) Discontinue the registration of long-term services and supports providers that: (i) Fail to meet the minimum qualifications applicable in law to the approved service that they provide; or (ii) violate the operational standards of the program;

(e) Disburse payments of benefits to registered long-term services and supports providers, utilizing and leveraging existing payment systems for the provision of approved services to eligible beneficiaries under RCW 50B.04.070;

(f) Prepare and distribute written or electronic materials to qualified individuals, eligible beneficiaries, and the public as deemed necessary by the commission to inform them of program design and updates;

(g) Provide customer service and address questions and complaints, including referring individuals to other appropriate agencies;

(h) Provide administrative and operational support to the commission;

(i) Track data useful in monitoring and informing the program, as identified by the commission; and

(j) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program.

(4) The employment security department shall:

(a) Collect and assess employee premiums as provided in RCW 50B.04.080;

(b) Assist the commission, council, and state actuary in monitoring the solvency and financial status of the program;

(c) Perform investigations to determine the compliance of premium payments in RCW 50B.04.080 and 50B.04.090 in coordination with the same activities conducted under the family and medical leave act, Title 50A RCW, to the extent possible;

(d) Make determinations regarding an individual's status as a qualified individual under RCW 50B.04.050; and

(e) Adopt rules and procedures necessary to implement and administer the activities specified in this section related to the program.

(5) The office of the state actuary shall:

(a) Beginning January 1, 2024, and biennially thereafter, perform an actuarial audit and valuation of the long-term services and supports trust fund. Additional or more frequent actuarial audits and valuations may be performed at the request of the council;

(b) Make recommendations to the council and the legislature on actions necessary to maintain trust solvency. The recommendations must include options to redesign or reduce benefit units, approved services, or both, to prevent or eliminate any unfunded actuarially accrued liability in the trust or to maintain solvency; and

(c) Select and contract for such actuarial, research, technical, and other consultants as the actuary deems necessary to perform its duties under chapter 363, Laws of 2019.

(6) By October 1, 2021, the employment security department and the department of social and health services shall jointly conduct outreach to provide

employers with educational materials to ensure employees are aware of the program and that the premium assessments will begin on January 1, 2022. In conducting the outreach, the employment security department and the department of social and health services shall provide on a public website information that explains the program and premium assessment in an easy to understand format. Outreach information must be available in English and other primary languages as defined in RCW 74.04.025.

Sec. 3. RCW 50B.04.030 and 2019 c 363 s 4 are each amended to read as follows:

(1) The long-term services and supports trust commission is established. The commission's recommendations and decisions must be guided by the joint goals of maintaining benefit adequacy and maintaining fund solvency and sustainability.

(2) The commission includes:

(a) Two members from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(b) Two members from each of the two largest caucuses of the senate, appointed by the president of the senate;

(c) The commissioner of the employment security department, or the commissioner's designee;

(d) The secretary of the department of social and health services, or the secretary's designee;

(e) The director of the health care authority, or the director's designee, who shall serve as a nonvoting member;

(f) One representative of the organization representing the area agencies on aging;

(g) One representative of a home care association that represents caregivers who provide services to private pay and medicaid clients;

(h) One representative of a union representing long-term care workers;

(i) One representative of an organization representing retired persons;

(j) One representative of an association representing skilled nursing facilities and assisted living providers;

(k) One representative of an association representing adult family home providers;

(l) Two individuals receiving long-term services and supports, or their designees, or representatives of consumers receiving long-term services and supports under the program;

(m) One member who is a worker who is, or will likely be, paying the premium established in RCW 50B.04.080 and who is not employed by a long-term services and supports provider; and

(n) One representative of an organization of employers whose members collect, or will likely be collecting, the premium established in RCW 50B.04.080.

(3)(a) Other than the legislators and agency heads identified in subsection (2) of this section, members of the commission are appointed by the governor for terms of two years, except that the governor shall appoint the initial members identified in subsection (2)(f) through (n) of this section to staggered terms not to exceed four years.

(b) The secretary of the department of social and health services, or the secretary's designee, shall serve as chair of the commission. Meetings of the commission are at the call of the chair. A majority of the voting members of the commission shall constitute a quorum for any votes of the commission. Approval of sixty percent of those voting members of the commission who are in attendance is required for the passage of any vote.

(c) Members of the commission and the subcommittee established in subsection (6) of this section must be compensated in accordance with RCW 43.03.250 and must be reimbursed for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060.

(4) Beginning January 1, 2021, the commission shall propose recommendations to the appropriate executive agency or the legislature regarding:

(a) The establishment of criteria for determining that an individual has met the requirements to be a qualified individual as established in RCW 50B.04.050 or an eligible beneficiary as established in RCW 50B.04.060;

(b) The establishment of criteria for minimum qualifications for the registration of long-term services and supports providers who provide approved services to eligible beneficiaries;

(c) The establishment of payment maximums for approved services consistent with actuarial soundness which shall not be lower than medicaid payments for comparable services. A service or supply may be limited by dollar amount, duration, or number of visits. The commission shall engage affected stakeholders to develop this recommendation;

(d) Changes to rules or policies to improve the operation of the program;

(e) Providing a recommendation to the council for the annual adjustment of the benefit unit in accordance with RCW 50B.04.010 and 50B.04.040;

(f) A refund of premiums for a deceased qualified individual with a dependent who is an individual with a developmental disability who is dependent for support from a qualified individual. The qualified individual must not have been determined to be an eligible beneficiary by the department of social and health services. The refund shall be deposited into an individual trust account within the developmental disabilities endowment trust fund for the benefit of the dependent with a developmental disability. The commission shall consider:

(i) The value of the refund to be one hundred percent of the current value of the qualified individual's lifetime premium payments at the time that certification of death of the qualified individual is submitted, less any administrative process fees; and

(ii) The criteria for determining whether the individual is developmentally disabled. The determination shall not be based on whether or not the individual with a developmental disability is receiving services under Title 71A RCW, or another state or local program;

(g) Assisting the state actuary with the preparation of regular actuarial reports on the solvency and financial status of the program and advising the legislature on actions necessary to maintain trust solvency. The commission shall provide the office of the state actuary with all actuarial reports for review. The office of the state actuary shall provide any recommendations to the commission and the legislature on actions necessary to maintain trust solvency;

(h) For the January 1, 2021, report only, recommendations on whether and how to extend coverage to individuals who became disabled before the age of eighteen, including the impact on the financial status and solvency of the trust. The commission shall engage affected stakeholders to develop this recommendation; and

(i) For the January 1, 2021, report only, the commission shall consult with the office of the state actuary on the development of an actuarial report of the projected solvency and financial status of the program. The office of the state actuary shall provide any recommendations to the commission and the legislature on actions necessary to achieve trust solvency.

(5) The commission shall monitor agency administrative expenses over time. Beginning November 15, 2020, the commission must annually report to the governor and the fiscal committees of the legislature on agency spending for administrative expenses and anticipated administrative expenses as the program shifts into different phases of implementation and operation. The November 15, 2025, report must include recommendations for a method of calculating future agency administrative expenses to limit administrative expenses while providing sufficient funds to adequately operate the program. The agency heads identified in subsection (2) of this section may advise the commission on the reports prepared under this subsection, but must recuse themselves from the commission's process for review, approval, and submission to the legislature.

(6) The commission shall establish an investment strategy subcommittee consisting of the members identified in subsection (2)(a) through (d) of this section as voting members of the subcommittee. In addition, four members appointed by the governor who are considered experienced and qualified in the field of investment shall serve as nonvoting members. The subcommittee shall provide guidance and advice to the state investment board on investment strategies for the account, including seeking counsel and advice on the types of investments that are constitutionally permitted.

(7) The commission shall work with insurers to develop long-term care insurance products that supplement the program's benefit.

Sec. 4. RCW 50B.04.050 and 2020 c 98 s 3 are each amended to read as follows:

(1) The employment security department shall deem a person to be a qualified individual as provided in this chapter if the person has paid the long-term services and supports premiums required by RCW 50B.04.080 for the equivalent of either:

(a) A total of ten years without interruption of five or more consecutive years; or

(b) Three years within the last six years from the date of application for benefits.

(2) When deeming a person to be a qualified individual, the employment security department shall require that the person have worked at least five hundred hours during each of the ten years in subsection (1)(a) of this section or each of the three years in subsection (1)(b) of this section.

(3) An exempt employee may never be deemed to be a qualified individual.

Sec. 5. RCW 50B.04.085 and 2020 c 98 s 7 are each amended to read as follows:

(1) An employee who attests that the employee has long-term care insurance purchased before November 1, 2021, may apply for an exemption from the premium assessment under RCW 50B.04.080. An exempt employee may not become a qualified individual or eligible beneficiary and is permanently ineligible for coverage under this title.

(2)(a) The employment security department must accept applications for exemptions only from October 1, 2021, through December 31, 2022.

(b) Only employees who are eighteen years of age or older may apply for an exemption.

(3) The employment security department is not required to verify the attestation of an employee that the employee has long-term care insurance.

(4) Approved exemptions will take effect on the first day of the quarter immediately following the approval of the exemption.

(5) Exempt employees are not entitled to a refund of any premium deductions made before the effective date of an approved exemption.

(6) An exempt employee must provide written notification to all current and future employers of an approved exemption.

(7) If an exempt employee fails to notify an employer of an exemption, the exempt employee is not entitled to a refund of any premium deductions made before notification is provided.

(8) Employers must not deduct premiums after being notified by an employee of an approved exemption.

(a) Employers must retain written notifications of exemptions received from employees.

(b) An employer who deducts premiums after being notified by the employee of an exemption is solely responsible for refunding to the employee any premiums deducted after the notification.

(c) The employer is not entitled to a refund from the employment security department for any premiums remitted to the employment security department that were deducted from exempt employees.

(9) The department must adopt rules necessary to implement and administer the activities specified in this section related to the program, including rules on the submission and processing of applications under this section.

Sec. 6. RCW 50B.04.090 and 2020 c 98 s 5 are each amended to read as follows:

(1) Beginning January 1, 2022, any self-employed person, including a sole proprietor, independent contractor, partner, or joint venturer, may elect coverage under this chapter. Coverage must be elected before January 1, 2025, or within three years of becoming self-employed for the first time. Those electing coverage under this subsection are responsible for payment of one hundred percent of all premiums assessed to an employee under RCW 50B.04.080. The self-employed person must file a notice of election in writing with the employment security department, in the manner required by the employment security department in rule. The self-employed person is eligible for benefits after paying the long-term services and supports premium for the time required under RCW 50B.04.050.

(2) A self-employed person who has elected coverage may not withdraw from coverage (~~at such times as the employment security department may adopt by rule, by filing a notice of withdrawal in writing with the employment~~

security department, with the withdrawal to take effect not sooner than thirty days after filing the notice with the employment security department)).

(3) A self-employed person who elects coverage must continue to pay premiums until such time that the individual retires from the workforce or is no longer self-employed. To cease premium assessment and collection, the self-employed person must file a notice with the employment security department if the individual retires from the workforce or is no longer self-employed.

(4) The employment security department may cancel elective coverage if the self-employed person fails to make required payments or file reports. The employment security department may collect due and unpaid premiums and may levy an additional premium for the remainder of the period of coverage. The cancellation must be effective no later than thirty days from the date of the notice in writing advising the self-employed person of the cancellation.

~~((4))~~ (5) Those electing coverage are considered employers or employees where the context so dictates.

~~((5))~~ (6) For the purposes of this section, "independent contractor" means an individual excluded from the definition of "employment" in RCW 50B.04.010.

~~((6))~~ (7) The employment security department shall adopt rules for determining the hours worked and the wages of individuals who elect coverage under this section and rules for enforcement of this section.

NEW SECTION. Sec. 7. A new section is added to chapter 50B.04 RCW to read as follows:

A federally recognized tribe may elect coverage under RCW 50B.04.080. If a federally recognized tribe has elected coverage under this section, it must also have the option to opt out at any time for any reason it deems necessary. The employment security department shall adopt rules to implement this section.

Passed by the House April 14, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor April 21, 2021.

Filed in Office of Secretary of State April 21, 2021.

CHAPTER 114

[Substitute House Bill 1383]

RESPIRATORY CARE PRACTITIONERS—VARIOUS PROVISIONS

AN ACT Relating to respiratory care practitioners; amending RCW 18.89.010, 18.89.020, 18.89.040, 18.89.050, and 18.89.090; and providing an effective date.

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

Sec. 1. RCW 18.89.010 and 1997 c 334 s 1 are each amended to read as follows:

The legislature finds that in order to safeguard life, health, and to promote public welfare, a person practicing or offering to practice respiratory care as a respiratory care practitioner in this state shall be required to submit evidence that he or she is qualified to practice, and shall be licensed as provided. The settings for these services may include, health facilities licensed in this state, clinics, home care, home health agencies, physicians' offices, ~~(and)~~ public or community health services, and services provided through telemedicine to

patients in these settings. Nothing in this chapter shall be construed to require that individual or group policies or contracts of an insurance carrier, health care service contractor, or health maintenance organization provide benefits or coverage for services and supplies provided by a person certified under this chapter.

Sec. 2. RCW 18.89.020 and 2020 c 80 s 20 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 health.

(2) "Direct supervision" means a health care practitioner is continuously on-site and physically present in the treatment operatory while the procedures are performed by the respiratory care practitioner.

(3) "Health care practitioner" means:

(a) A physician licensed under chapter 18.71 RCW;

(b) An osteopathic physician or surgeon licensed under chapter 18.57 RCW;

or

(c) Acting within the scope of their respective licensure, a podiatric physician and surgeon licensed under chapter 18.22 RCW, an advanced registered nurse practitioner licensed under chapter 18.79 RCW, a naturopath licensed under chapter 18.36A RCW, or a physician assistant licensed under chapter 18.71A RCW.

~~((3))~~ (4) "Respiratory care practitioner" means an individual licensed under this chapter.

~~((4))~~ (5) "Secretary" means the secretary of health or the secretary's designee.

Sec. 3. RCW 18.89.040 and 2011 c 235 s 2 are each amended to read as follows:

(1) A respiratory care practitioner licensed under this chapter is employed in the treatment, management, diagnostic testing, rehabilitation, disease prevention, and care of patients with deficiencies and abnormalities which affect the cardiopulmonary system and associated aspects of other systems, and is under the direct written, verbal, or telephonic order and under the qualified medical direction of a health care practitioner. The practice of respiratory care includes:

(a) The use and administration of prescribed medical gases, exclusive of general anesthesia, including the administration of nitrous oxide for analgesia under the direct supervision of a health care practitioner;

(b) The use of air and oxygen administering apparatus;

(c) The use of humidification and aerosols;

(d) The administration, to the extent of training, as determined by the secretary, of prescribed pharmacologic agents, including any medications administered via a nebulizer, related to ~~((respiratory))~~ cardiopulmonary care;

(e) The use of mechanical ventilatory, hyperbaric, and physiological support;

(f) Postural drainage, chest percussion, and vibration;

(g) Bronchopulmonary hygiene;

(h) Cardiopulmonary resuscitation as it pertains to advanced cardiac life support or pediatric advanced life support guidelines;

(i) The maintenance of natural and artificial airways and insertion, without cutting tissues, of artificial airways, as prescribed by a health care practitioner;

(j) Diagnostic and monitoring techniques such as the collection and measurement of cardiorespiratory specimens, volumes, pressures, and flows;

(k) The insertion of devices to draw, analyze, infuse, or monitor pressure in arterial, capillary, or venous blood as prescribed by a health care practitioner; ~~((and))~~

(l) Diagnostic monitoring of and therapeutic interventions for desaturation, ventilatory patterns, and related sleep abnormalities to aid the health care practitioner in diagnosis. This subsection does not prohibit any person from performing sleep monitoring tasks as set forth in this subsection under the supervision or direction of a licensed health care provider;

(m) Acting as an extracorporeal membrane oxygenation specialist for the purposes of extracorporeal life support and extracorporeal membrane oxygenation in all critical areas, including the operating room, only if a respiratory therapist has obtained specialized education and training as determined by the secretary. Programs meeting the extracorporeal life support organization guidelines for training and continuing education of extracorporeal membrane oxygenation specialists shall be considered sufficient to meet the specialized education requirement. For the purposes of this subsection, extracorporeal membrane oxygenation specialist duties do not include the conduct and management of cardiopulmonary bypass, the incorporation of venous reservoirs, or cardiotomy suction during extracorporeal membrane oxygenation therapy; and

(n) Cardiopulmonary stress testing, including the administration of medications used during cardiopulmonary stress testing.

(2) Nothing in this chapter prohibits or restricts:

(a) The practice of a profession by individuals who are licensed under other laws of this state who are performing services within their authorized scope of practice, that may overlap the services provided by respiratory care practitioners;

(b) The practice of respiratory care by an individual employed by the government of the United States while the individual is engaged in the performance of duties prescribed for him or her by the laws and rules of the United States;

(c) The practice of respiratory care by a person pursuing a supervised course of study leading to a degree or certificate in respiratory care as a part of an accredited and approved educational program, if the person is designated by a title that clearly indicates his or her status as a student or trainee and limited to the extent of demonstrated proficiency of completed curriculum, and under direct supervision;

(d) The use of the title "respiratory care practitioner" by registered nurses authorized under chapter 18.79 RCW; or

(e) The practice without compensation of respiratory care of a family member.

Nothing in this chapter shall be construed to require that individual or group policies or contracts of an insurance carrier, health care service contractor, or

health maintenance organization provide benefits or coverage for services and supplies provided by a person licensed under this chapter.

Sec. 4. RCW 18.89.050 and 2004 c 262 s 13 are each amended to read as follows:

(1) In addition to any other authority provided by law, the secretary may:

(a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) Set all license, examination, and renewal fees in accordance with RCW 43.70.250;

(c) Establish forms and procedures necessary to administer this chapter;

(d) Issue a license to any applicant who has met the education, training, and examination requirements for licensure;

(e) Hire clerical, administrative, and investigative staff as needed to implement this chapter and hire individuals licensed under this chapter to serve as examiners for any practical examinations;

(f) Approve those schools from which graduation will be accepted as proof of an applicant's eligibility to take the licensure examination, specifically requiring that applicants must have completed an accredited respiratory program with at least a two-year curriculum;

(g) Prepare, grade, and administer, or determine the nature of, and supervise the grading and administration of, examinations for applicants for licensure;

(h) Determine whether alternative methods of training are equivalent to formal education and establish forms, procedures, and criteria for evaluation of an applicant's alternative training to determine the applicant's eligibility to take the examination;

(i) Determine which states have legal credentialing requirements equivalent to those of this state and issue licenses to individuals legally credentialed in those states without examination;

(j) Define and approve any experience requirement for licensure; ~~((and))~~

(k) Appoint members of the profession to serve in an ad hoc advisory capacity to the secretary in carrying out this chapter. The members will serve for designated times and provide advice on matters specifically identified and requested by the secretary. The members shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses under RCW 43.03.040 and 43.03.060; and

(l) Define training requirements and hospital protocols for respiratory care therapists to administer nitrous oxide.

(2) The provisions of chapter 18.130 RCW shall govern the issuance and denial of licenses, unlicensed practice, and the disciplining of persons licensed under this chapter. The secretary shall be the disciplining authority under this chapter.

Sec. 5. RCW 18.89.090 and 1997 c 334 s 8 are each amended to read as follows:

(1) The secretary shall issue a license to any applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

(a) Graduation from a school approved by the secretary or successful completion of alternate training which meets the criteria established by the secretary;

(b) ~~((Successful))~~ (i) For licenses issued prior to the effective date of this section, successful completion of an examination administered or approved by the secretary.

(ii) For licenses issued on or after the effective date of this section, successful completion of both an examination administered or approved by the secretary and a clinical simulation examination administered or approved by the secretary. The secretary may deem an applicant in compliance with this subsection (1)(b)(ii) if the applicant possesses an active credential in good standing as a registered respiratory therapist issued by a national organization such as the national board for respiratory care, if one of the requirements for the issuance of the credential is passage of the examinations required by this subsection (1)(b)(ii);

(c) Successful completion of any experience requirement established by the secretary;

(d) Good moral character.

In addition, applicants shall be subject to the grounds for denial or issuance of a conditional license under chapter 18.130 RCW.

~~(2) ((A person who meets the qualifications to be admitted to the examination for licensure as a respiratory care practitioner may practice as a respiratory care practitioner under the supervision of a respiratory care practitioner licensed under this chapter between the date of filing an application for licensure and the announcement of the results of the next succeeding examination for licensure if that person applies for and takes the first examination for which he or she is eligible.~~

~~(3) A person certified as a respiratory care practitioner in good standing on July 1, 1998, who applies within one year of July 1, 1998, may be licensed without having completed the two-year curriculum set forth in RCW 18.89.050(1)(f), and without having to retake an examination under subsection (1)(b) of this section.~~

~~(4)) The secretary shall establish by rule what constitutes adequate proof of meeting the criteria.~~

NEW SECTION, Sec. 6. This act takes effect July 1, 2022.

Passed by the House April 12, 2021.

Passed by the Senate March 29, 2021.

Approved by the Governor April 21, 2021.

Filed in Office of Secretary of State April 21, 2021.

CHAPTER 115

[Engrossed Second Substitute Senate Bill 5160]

LANDLORD-TENANT RELATIONS

AN ACT Relating to addressing landlord-tenant relations by providing certain tenant protections during the public health emergency, providing for legal representation in eviction cases, establishing an eviction resolution pilot program for nonpayment of rent cases, and authorizing landlord access to certain rental assistance programs; amending RCW 43.31.615, 59.18.057, 59.18.365, 59.12.040, 59.20.040, and 59.18.410; reenacting and amending RCW 43.31.605 and 59.18.230; adding new sections to chapter 59.18 RCW; adding a new section to chapter 2.53 RCW; adding a new section to chapter 43.185C RCW; creating new sections; repealing RCW 59.18.375; prescribing penalties; making an appropriation; providing expiration dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that the COVID-19 pandemic is causing a sustained global economic slowdown, and an economic downturn throughout Washington state with unprecedented numbers of layoffs and reduced work hours for a significant percentage of our workforce. Many of the state's workforce has been impacted by these layoffs and substantially reduced work hours and have suffered economic hardship, disproportionately affecting low and moderate-income workers resulting in lost wages and the inability to pay for basic household expenses, including rent. Hundreds of thousands of tenants in Washington are unable to consistently pay their rent, reflecting the continued financial precariousness of many renters in the state. Before the COVID-19 pandemic, nonpayment of rent was the leading cause of evictions within the state. Because the COVID-19 pandemic has led to an inability for tenants to consistently pay rent, the likelihood of evictions has increased, as well as life, health, and safety risks to a significant percentage of the state's tenants. As a result, the governor has issued a temporary moratorium on evictions as of March 2020, with multiple extensions and other related actions, to reduce housing instability and enable tenants to stay in their homes.

Therefore, it is the intent of the legislature with this act to increase tenant protections during the public health emergency, provide legal representation for qualifying tenants in eviction cases, establish an eviction resolution pilot program to address nonpayment of rent eviction cases before any court filing, and ensure tenants and landlords have adequate opportunities to access state and local rental assistance programs to reimburse landlords for unpaid rent and preserve tenancies.

NEW SECTION. Sec. 2. A new section is added to chapter 59.18 RCW to read as follows:

The definitions in this section apply to sections 3 and 4 of this act unless the context clearly requires otherwise.

(1) "Dwelling unit" has the same meaning as defined in RCW 59.18.030, and includes a manufactured/mobile home or a mobile home lot as defined in RCW 59.20.030.

(2) "Eviction moratorium" refers to the governor of the state of Washington's proclamation 20-19.6, proclaiming a moratorium on certain evictions for all counties throughout Washington state on March 18, 2021.

(3) "Landlord" has the same meaning as defined in RCW 59.18.030 and 59.20.030.

(4) "Prospective landlord" has the same meaning as defined in RCW 59.18.030.

(5) "Public health emergency" refers to the governor of the state of Washington's proclamation 20-05, proclaiming a state of emergency for all counties throughout Washington state on February 29, 2020, and any subsequent orders extending or amending such proclamation due to COVID-19 until the proclamation expires or is terminated by the governor of the state of Washington.

(6) "Rent" has the same meaning as defined in RCW 59.18.030.

(7) "Tenant" refers to any individual renting a dwelling unit or lot primarily for living purposes, including any individual with a tenancy subject to this

chapter or chapter 59.20 RCW or any individual residing in transient lodging, such as a hotel or motel or camping area as their primary dwelling, for 30 days or more prior to March 1, 2020. "Tenant" does not include any individual residing in a hotel or motel or camping area as their primary dwelling for more than 30 days after March 1, 2020, if the hotel or motel or camping area has provided the individual with a seven-day eviction notice, which must include the following language: "For no-cost legal assistance, please call 2-1-1 or the Northwest Justice Project CLEAR Hotline outside King County (888) 201-1014 weekdays between 9:15 a.m. - 12:15 p.m., or (888) 387-7111 for seniors (age 60 and over). You may find additional resource information at <http://www.washingtonlawhelp.org>." "Tenant" also does not include occupants of homeless mitigation sites or a person entering onto land without permission of the landowner or lessor. For purposes of this subsection, any local government provision of solid waste or hygiene services to unsanctioned encampments does not constitute permission to occupy land.

TENANT PROTECTIONS

NEW SECTION. Sec. 3. A new section is added to chapter 59.18 RCW to read as follows:

(1) A landlord may not charge or impose any late fees or other charges against any tenant for the nonpayment of rent that became due between March 1, 2020, and six months following the expiration of the eviction moratorium.

(2) For rent that accrued between March 1, 2020, and the six months following the expiration of the eviction moratorium expiration date:

(a) A landlord may not report to a prospective landlord:

(i) A tenant's nonpayment of rent that accrued between March 1, 2020, and the six months following the expiration of the eviction moratorium; or

(ii) An unlawful detainer action pursuant to RCW 59.12.030(3) that resulted from a tenant's nonpayment of rent between March 1, 2020, and the six months following the expiration of the eviction moratorium.

(b) A prospective landlord may not take an adverse action based on a prospective tenant's nonpayment of rent that occurred between March 1, 2020, and the six months following the expiration of the eviction moratorium.

(3)(a) A landlord or prospective landlord may not deny, discourage application for, or otherwise make unavailable any rental dwelling unit based on a tenant's or prospective tenant's medical history including, but not limited to, the tenant's or prospective tenant's prior or current exposure or infection to the COVID-19 virus.

(b) A landlord or prospective landlord may not inquire about, consider, or require disclosure of a tenant's or prospective tenant's medical records or history, unless such disclosure is necessary to evaluate a reasonable accommodation request or reasonable modification request under RCW 49.60.222.

(4) A landlord or prospective landlord in violation of this section is liable in a civil action for up to two and one-half times the monthly rent of the real property at issue, as well as court costs and reasonable attorneys' fees. A court must impose this penalty in an amount necessary to deter future violations, payable to the tenant bringing the action.

REPAYMENT PLANS

NEW SECTION. Sec. 4. A new section is added to chapter 59.18 RCW to read as follows:

(1) The eviction moratorium instituted by the governor of the state of Washington's proclamation 20-19.6 shall end on June 30, 2021.

(2) If a tenant has remaining unpaid rent that accrued between March 1, 2020, and six months following the expiration of the eviction moratorium or the end of the public health emergency, whichever is greater, the landlord must offer the tenant a reasonable schedule for repayment of the unpaid rent that does not exceed monthly payments equal to one-third of the monthly rental charges during the period of accrued debt. If a tenant fails to accept the terms of a reasonable repayment plan within 14 days of the landlord's offer, the landlord may proceed with an unlawful detainer action as set forth in RCW 59.12.030(3) but subject to any requirements under the eviction resolution pilot program established under section 7 of this act. If the tenant defaults on any rent owed under a repayment plan, the landlord may apply for reimbursement from the landlord mitigation program as authorized under RCW 43.31.605(1)(d) or proceed with an unlawful detainer action as set forth in RCW 59.12.030(3) but subject to any requirements under the eviction resolution pilot program established under section 7 of this act. The court must consider the tenant's circumstances, including decreased income or increased expenses due to COVID-19, and the repayment plan terms offered during any unlawful detainer proceeding.

(3) Any repayment plan entered into under this section must:

(a) Not require payment until 30 days after the repayment plan is offered to the tenant;

(b) Cover rent only and not any late fees, attorneys' fees, or any other fees and charges;

(c) Allow for payments from any source of income as defined in RCW 59.18.255(5) or from pledges by nonprofit organizations, churches, religious institutions, or governmental entities; and

(d) Not include provisions or be conditioned on: The tenant's compliance with the rental agreement, payment of attorneys' fees, court costs, or other costs related to litigation if the tenant defaults on the rental agreement; a requirement that the tenant apply for governmental benefits or provide proof of receipt of governmental benefits; or the tenant's waiver of any rights to a notice under RCW 59.12.030 or related provisions before a writ of restitution is issued.

(4) It is a defense to an eviction under RCW 59.12.030(3) that a landlord did not offer a repayment plan in conformity with this section.

(5) To the extent available funds exist for rental assistance from a federal, state, local, private, or nonprofit program, the tenant or landlord may continue to seek rental assistance to reduce and/or eliminate the unpaid rent balance.

Sec. 5. RCW 43.31.605 and 2020 c 315 s 8 and 2020 c 169 s 2 are each reenacted and amended to read as follows:

(1)(a) Subject to the availability of funds for this purpose, the landlord mitigation program is created and administered by the department. The department shall have such rule-making authority as the department deems necessary to administer the program.

(b) The following types of claims related to landlord mitigation for renting private market rental units to low-income tenants using a housing subsidy program are eligible for reimbursement from the landlord mitigation program account:

(i) Up to one thousand dollars for improvements identified in RCW 59.18.255(1)(a). In order to be eligible for reimbursement under this subsection (1)(b)(i), the landlord must pay for the first five hundred dollars for improvements, and rent to the tenant whose housing subsidy program was conditioned on the real property passing inspection. Reimbursement under this subsection (1)(b)(i) may also include up to fourteen days of lost rental income from the date of offer of housing to the applicant whose housing subsidy program was conditioned on the real property passing inspection until move in by that applicant;

(ii) Reimbursement for damages as reflected in a judgment obtained against the tenant through either an unlawful detainer proceeding, or through a civil action in a court of competent jurisdiction after a hearing;

(iii) Reimbursement for damages established pursuant to subsection (2) of this section; and

(iv) Reimbursement for unpaid rent and unpaid utilities, provided that the landlord can evidence it to the department's satisfaction.

(c) Claims related to landlord mitigation for an unpaid judgment for rent, unpaid judgments resulting from the tenant's failure to comply with an installment payment agreement identified in RCW 59.18.610, late fees, attorneys' fees, and costs after a court order pursuant to RCW 59.18.410(3), including any unpaid portion of the judgment after the tenant defaults on the payment plan pursuant to RCW 59.18.410(3)(c), are eligible for reimbursement from the landlord mitigation program account and are exempt from any postjudgment interest required under RCW 4.56.110. Any claim for reimbursement made pursuant to RCW 59.18.410(3)(e)(ii) must be accompanied by a court order staying the writ of restitution pursuant to RCW 59.18.410(3). Any claim for reimbursement under this subsection (1)(c) is not an entitlement.

(i) The department shall provide for a form on its website for tenants and landlords to apply for reimbursement funds for the landlord pursuant to this subsection (1)(c).

(ii) The form must include: (A) Space for the landlord and tenant to provide names, mailing addresses, phone numbers, date of birth for the tenant, and any other identifying information necessary for the department to process payment; (B) the landlord's statewide vendor identification number and how to obtain one; (C) name and address to whom payment must be made; (D) the amount of the judgment with instructions to include any other supporting documentation the department may need to process payment; (E) instructions for how the tenant is to reimburse the department under (c)(iii) of this subsection; (F) a description of the consequences if the tenant does not reimburse the department as provided in this subsection (1)(c); (G) a signature line for the landlord and tenant to confirm that they have read and understood the contents of the form and program; and (H) any other information necessary for the operation of the program. If the tenant has not signed the form after the landlord has made good faith efforts to obtain the tenant's signature, the landlord may solely submit the form but must attest to the amount of money owed and sign the form under penalty of perjury.

(iii) When a landlord has been reimbursed pursuant to this subsection (1)(c), the tenant for whom payment was made shall reimburse the department by depositing the amount disbursed from the landlord mitigation program account into the court registry of the superior court in which the judgment was entered. The tenant or other interested party may seek an ex parte order of the court under the unlawful detainer action to order such funds to be disbursed by the court. Upon entry of the order, the court clerk shall disburse the funds and include a case number with any payment issued to the department. If directed by the court, a clerk shall issue any payments made by a tenant to the department without further court order.

(iv) The department may deny an application made by a tenant who has failed to reimburse the department for prior payments issued pursuant to this subsection (1)(c).

(v) With any disbursement from the account to the landlord, the department shall notify the tenant at the address provided within the application that a disbursement has been made to the landlord on the tenant's behalf and that failure to reimburse the account for the payment through the court registry may result in a denial of a future application to the account pursuant to this subsection (1)(c). The department may include any other additional information about how to reimburse the account it deems necessary to fully inform the tenant.

(vi) The department's duties with respect to obtaining reimbursement from the tenant to the account are limited to those specified within this subsection (1)(c).

(vii) If at any time funds do not exist in the landlord mitigation program account to reimburse claims submitted under this subsection (1)(c), the department must create and maintain a waitlist and distribute funds in the order the claims are received pursuant to subsection (6) of this section. Payment of any claims on the waitlist shall be made only from the landlord mitigation program account. The department shall not be civilly or criminally liable and may not have any penalty or cause of action of any nature arise against it regarding the provision or lack of provision of funds for reimbursement.

(d)(i) Claims related to landlord mitigation for:

(A) Up to \$15,000 in unpaid rent that accrued between March 1, 2020, and six months following the expiration of the eviction moratorium and the tenant being low-income, limited resourced or experiencing hardship, voluntarily vacated or abandoned the tenancy; or

(B) Up to \$15,000 in remaining unpaid rent if a tenant defaults on a repayment plan entered into under section 4 of this act are eligible for reimbursement from the landlord mitigation program account subject to the program requirements under this section, provided the tenancy has not been terminated at the time of reimbursement.

(ii) A landlord is ineligible for reimbursement under this subsection (1)(d) where the tenant vacated the tenancy because of an unlawful detainer action under RCW 59.12.030(3).

(iii) A landlord in receipt of reimbursement from the program pursuant to this subsection (1)(d) is prohibited from:

(A) Taking legal action against the tenant for damages or any remaining unpaid rent accrued between March 1, 2020, and six months following the expiration of the eviction moratorium attributable to the same tenancy; or

(B) Pursuing collection, or authorizing another entity to pursue collection on the landlord's behalf, of a judgment against the tenant for damages or any remaining unpaid rent accrued between March 1, 2020, and six months following the expiration of the eviction moratorium attributable to the same tenancy.

(2) In order for a claim under subsection (1)(b)(iii) of this section to be eligible for reimbursement from the landlord mitigation program account, a landlord must:

(a) Have ensured that the rental property was inspected at the commencement of the tenancy by both the tenant and the landlord or landlord's agent and that a detailed written move-in property inspection report, as required in RCW 59.18.260, was prepared and signed by both the tenant and the landlord or landlord's agent;

(b) Make repairs and then apply for reimbursement to the department;

(c) Submit a claim on a form to be determined by the department, signed under penalty of perjury; and

(d) Submit to the department copies of the move-in property inspection report specified in (a) of this subsection and supporting materials including, but not limited to, before repair and after repair photographs, videos, copies of repair receipts for labor and materials, and such other documentation or information as the department may request.

(3) The department shall make reasonable efforts to review a claim within ten business days from the date it received properly submitted and complete claims to the satisfaction of the department. In reviewing a claim pursuant to subsection (1)(b) of this section, and determining eligibility for reimbursement, the department must receive documentation, acceptable to the department in its sole discretion, that the claim involves a private market rental unit rented to a low-income tenant who is using a housing subsidy program.

(4) Claims pursuant to subsection (1)(b) of this section related to a tenancy must total at least five hundred dollars in order for a claim to be eligible for reimbursement from the program. While claims or damages may exceed five thousand dollars, total reimbursement from the program may not exceed five thousand dollars per tenancy.

(5) Damages, beyond wear and tear, that are eligible for reimbursement include, but are not limited to: Interior wall gouges and holes; damage to doors and cabinets, including hardware; carpet stains or burns; cracked tiles or hard surfaces; broken windows; damage to household fixtures such as disposal, toilet, sink, sink handle, ceiling fan, and lighting. Other property damages beyond normal wear and tear may also be eligible for reimbursement at the department's discretion.

(6) All reimbursements for eligible claims shall be made on a first-come, first-served basis, to the extent of available funds. The department shall use best efforts to notify the tenant of the amount and the reasons for any reimbursements made.

(7) The department, in its sole discretion, may inspect the property and the landlord's records related to a claim, including the use of a third-party inspector as needed to investigate fraud, to assist in making its claim review and determination of eligibility.

(8) A landlord in receipt of reimbursement from the program pursuant to subsection (1)(b) of this section is prohibited from:

(a) Taking legal action against the tenant for damages attributable to the same tenancy; or

(b) Pursuing collection, or authorizing another entity to pursue collection on the landlord's behalf, of a judgment against the tenant for damages attributable to the same tenancy.

(9) A landlord denied reimbursement under subsection (1)(b)(iii) of this section may seek to obtain a judgment from a court of competent jurisdiction and, if successful, may resubmit a claim for damages supported by the judgment, along with a certified copy of the judgment. The department may reimburse the landlord for that portion of such judgment that is based on damages reimbursable under the landlord mitigation program, subject to the limitations set forth in this section.

(10) Determinations regarding reimbursements shall be made by the department in its sole discretion.

(11) The department must establish a website that advertises the landlord mitigation program, the availability of reimbursement from the landlord mitigation program account, and maintains or links to the agency rules and policies established pursuant to this section.

(12) Neither the state, the department, or persons acting on behalf of the department, while acting within the scope of their employment or agency, is liable to any person for any loss, damage, harm, or other consequence resulting directly or indirectly from the department's administration of the landlord mitigation program or determinations under this section.

(13)(a) A report to the appropriate committees of the legislature on the effectiveness of the program and recommended modifications shall be submitted to the governor and the appropriate committees of the legislature by January 1, 2021. In preparing the report, the department shall convene and solicit input from a group of stakeholders to include representatives of large multifamily housing property owners or managers, small rental housing owners in both rural and urban markets, a representative of tenant advocates, and a representative of the housing authorities.

(b) The report shall include discussion of the effectiveness of the program as well as the department's recommendations to improve the program, and shall include the following:

(i) The number of total claims and total amount reimbursed to landlords by the fund;

(ii) Any indices of fraud identified by the department;

(iii) Any reports by the department regarding inspections authorized by and conducted on behalf of the department;

(iv) An outline of the process to obtain reimbursement for improvements and for damages from the fund;

(v) An outline of the process to obtain reimbursement for lost rent due to the rental inspection and tenant screening process, together with the total amount reimbursed for such damages;

(vi) An evaluation of the feasibility for expanding the use of the mitigation fund to provide up to ninety-day no interest loans to landlords who have not

received timely rental payments from a housing authority that is administering section 8 rental assistance;

(vii) Any other modifications and recommendations made by stakeholders to improve the effectiveness and applicability of the program.

(14) As used in this section:

(a) "Housing subsidy program" means a housing voucher as established under 42 U.S.C. Sec. 1437 as of January 1, 2018, or other housing subsidy program including, but not limited to, valid short-term or long-term federal, state, or local government, private nonprofit, or other assistance program in which the tenant's rent is paid either partially by the program and partially by the tenant, or completely by the program directly to the landlord;

(b) "Low-income" means income that does not exceed eighty percent of the median income for the standard metropolitan statistical area in which the private market rental unit is located; and

(c) "Private market rental unit" means any unit available for rent that is owned by an individual, corporation, limited liability company, nonprofit housing provider, or other entity structure, but does not include housing acquired, or constructed by a public housing agency under 42 U.S.C. Sec. 1437 as it existed on January 1, 2018.

Sec. 6. RCW 43.31.615 and 2019 c 356 s 13 are each amended to read as follows:

(1) The landlord mitigation program account is created in the custody of the state treasury. All transfers and appropriations by the legislature, repayments, private contributions, and all other sources must be deposited into the account. Expenditures from the account may only be used for the landlord mitigation program under this chapter to reimburse landlords for eligible claims related to private market rental units during the time of their rental to low-income tenants using housing subsidy programs as defined in RCW 43.31.605, for any unpaid judgment issued within an unlawful detainer action after a court order pursuant to RCW 59.18.410(3) as described in RCW 43.31.605(1)(c), for any unpaid rent as described in RCW 43.31.605(1)(d), and for the administrative costs identified in subsection (2) of this section. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Administrative costs associated with application, distribution, and other program activities of the department may not exceed twenty percent of the annual funds available for the landlord mitigation program. Reappropriations must not be included in the calculation of the annual funds available for determining the administrative costs.

(3) Funds deposited into the landlord mitigation program account shall be prioritized by the department for allowable costs under RCW 43.31.605(1)(b), and may only be used for other allowable costs when funding available in the account exceeds the amount needed to pay claims under RCW 43.31.605(1)(b).

EVICITION RESOLUTION PILOT PROGRAM

NEW SECTION. **Sec. 7.** A new section is added to chapter 59.18 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the administrative office of the courts shall contract with dispute resolution centers as described under chapter 7.75 RCW within or serving each county to establish a court-based eviction resolution pilot program operated in accordance with Washington supreme court order no. 25700-B-639 and any standing judicial order of the individual superior court.

(2) The eviction resolution pilot program must be used to facilitate the resolution of nonpayment of rent cases between a landlord and tenant before the landlord files an unlawful detainer action.

(3) Prior to filing an unlawful detainer action for nonpayment of rent, the landlord must provide a notice as required under RCW 59.12.030(3) and an additional notice to the tenant informing them of the eviction resolution pilot program. The landlord must retain proof of service or mailing of the additional notice. The additional notice to the tenant must provide at least the following information regarding the eviction resolution pilot program:

(a) Contact information for the local dispute resolution center;

(b) Contact information for the county's housing justice project or, if none, a statewide organization providing housing advocacy services for low-income residents;

(c) The following statement: "The Washington state office of the attorney general has this notice in multiple languages on its website. You will also find information there on how to find a lawyer or advocate at low or no cost and any available resources to help you pay your rent. Alternatively, you may find additional information to help you at <http://www.washingtonlawhelp.org>";

(d) The name and contact information of the landlord, the landlord's attorney, if any, and the tenant; and

(e) The following statement: "Failure to respond to this notice within 14 days may result in the filing of a summons and complaint for an unlawful detainer action with the court."

(4) At the time of service or mailing of the pay or vacate notice and additional notice to the tenant, a landlord must also send copies of these notices to the local dispute resolution center serving the area where the property is located.

(5) A landlord must secure a certification of participation with the eviction resolution program by the appropriate dispute resolution center before an unlawful detainer action for nonpayment of rent may be heard by the court.

(6) The administrative office of the courts may also establish and produce any other notice forms and requirements as necessary to implement the eviction resolution pilot program.

(7) Any superior court, in collaboration with the dispute resolution center that is located within or serving the same county, participating in the eviction resolution pilot program must report annually to the administrative office of the courts beginning January 1, 2022, until January 1, 2023, on the following:

(a) The number of unlawful detainer actions for nonpayment of rent that were subject to program requirements;

(b) The number of referrals made to dispute resolution centers;

(c) The number of nonpayment of rent cases resolved by the program;

(d) How many instances the tenant had legal representation either at the conciliation stage or formal mediation stage;

(e) The number of certifications issued by dispute resolution centers and filed by landlords with the court; and

(f) Any other information that relates to the efficacy of the pilot program.

(8) By July 1, 2022, until July 1, 2023, the administrative office of the courts must provide a report to the legislature summarizing the report data shared by the superior courts and dispute resolution centers under subsection (7) of this section.

(9) This section expires July 1, 2023.

RIGHT TO COUNSEL

NEW SECTION. Sec. 8. A new section is added to chapter 59.18 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the court must appoint an attorney for an indigent tenant in an unlawful detainer proceeding under this chapter and chapters 59.12 and 59.20 RCW. The office of civil legal aid is responsible for implementation of this subsection as provided in section 9 of this act, and the state shall pay the costs of legal services provided by an attorney appointed pursuant to this subsection. In implementing this section, the office of civil legal aid shall assign priority to providing legal representation to indigent tenants in those counties in which the most evictions occur and to indigent tenants who are disproportionately at risk of eviction.

(2) For purposes of this section, "indigent" means any person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Receiving an annual income, after taxes, of 200 percent or less of the current federally established poverty level.

NEW SECTION. Sec. 9. A new section is added to chapter 2.53 RCW to read as follows:

(1) Moneys appropriated by the legislature for legal services provided by an attorney appointed pursuant to section 8 of this act must be administered by the office of civil legal aid established under RCW 2.53.020. The office of civil legal aid must enter into contracts with attorneys and agencies for the provision of legal services under section 8 of this act to remain within appropriated amounts.

(2) The legislature recognizes that the office of civil legal aid needs time to properly implement the right to attorney legal representation for indigent tenants under and consistent with section 8 of this act. Within 90 days after the effective date of this section, the office of civil legal aid must submit to the appropriate legislative committees a plan to fully implement the tenant representation program under and consistent with section 8 of this act within 12 months of the effective date of this section.

Sec. 10. RCW 59.18.057 and 2020 c 315 s 2 are each amended to read as follows:

(1) Every (~~fourteen-day~~) 14-day notice served pursuant to RCW 59.12.030(3) must be in substantially the following form:

"TO:

AND TO:

ADDRESS:

FOURTEEN-DAY NOTICE TO PAY RENT OR VACATE THE PREMISES

You are receiving this notice because the landlord alleges you are not in compliance with the terms of the lease agreement by failing to pay rent and/or utilities and/or recurring or periodic charges that are past due.

(1) Monthly rent due for (list month(s)): \$ (dollar amount)

AND/OR

(2) Utilities due for (list month(s)): \$ (dollar amount)

AND/OR

(3) Other recurring or periodic charges identified in the lease for (list month(s)): \$ (dollar amount)

TOTAL AMOUNT DUE: \$ (dollar amount)

Note - payment must be made pursuant to the terms of the rental agreement or by nonelectronic means including, but not limited to, cashier's check, money order, or other certified funds.

You must pay the total amount due to your landlord within fourteen (14) days after service of this notice or you must vacate the premises. Any payment you make to the landlord must first be applied to the total amount due as shown on this notice. Any failure to comply with this notice within fourteen (14) days after service of this notice may result in a judicial proceeding that leads to your eviction from the premises.

The Washington state Office of the Attorney General has this notice in multiple languages as well as information on available resources to help you pay your rent, including state and local rental assistance programs, on its website at www.atg.wa.gov/landlord-tenant. ~~((You will also find information there on how to find a lawyer or advocate at low or no cost and any available resources to help you pay your rent.~~

Alternatively, for no-cost legal assistance for low-income renters)) State law provides you the right to legal representation and the court may be able to appoint a lawyer to represent you without cost to you if you are a qualifying low-income renter. If you believe you are a qualifying low-income renter and would like an attorney appointed to represent you, please contact the Eviction Defense Screening Line at 855-657-8387 or apply online at <https://nwjustice.org/apply-online>. For additional resources, call 2-1-1 or the Northwest Justice Project CLEAR Hotline outside King County (888) 201-1014 weekdays between 9:15 a.m. - 12:15 p.m., or (888) 387-7111 for seniors (age 60 and over). You may find additional information to help you at <http://www.washingtonlawhelp.org>. Free or low-cost mediation services to assist in nonpayment of rent disputes before any judicial proceedings occur are also available at dispute resolution centers throughout the state. You can find your nearest dispute resolution center at <https://www.resolutionwa.org>.

State law also provides you the right to receive interpreter services at court.

OWNER/LANDLORD: _____ DATE: _____

WHERE TOTAL AMOUNT DUE IS TO BE PAID:
 ___(owner/landlord name)___
 _____(address)_____ "

(2) Upon expiration of the eviction resolution pilot program established under section 7 of this act:

(a) The landlord must also provide the notice required in this section to the dispute resolution center located within or serving the county in which the dwelling unit is located. It is a defense to an eviction under RCW 59.12.030 that a landlord did not provide additional notice under this subsection.

(b) Dispute resolution centers are encouraged to notify the housing justice project or northwest justice project located within or serving the county in which the dispute resolution center is located, as appropriate, once notice is received from the landlord under this subsection.

(3) The form required in this section does not abrogate any additional notice requirements to tenants as required by federal, state, or local law.

Sec. 11. RCW 59.18.365 and 2020 c 315 s 4 are each amended to read as follows:

(1) The summons must contain the names of the parties to the proceeding, the attorney or attorneys if any, the court in which the same is brought, the nature of the action, in concise terms, and the relief sought, and also the return day; and must notify the defendant to appear and answer within the time designated or that the relief sought will be taken against him or her. The summons must contain a street address for service of the notice of appearance or answer and, if available, a facsimile number for the plaintiff or the plaintiff's attorney, if represented. The summons must be served and returned in the same manner as a summons in other actions is served and returned.

(2) A defendant may serve a copy of an answer or notice of appearance by any of the following methods:

(a) By delivering a copy of the answer or notice of appearance to the person who signed the summons at the street address listed on the summons;

(b) By mailing a copy of the answer or notice of appearance addressed to the person who signed the summons to the street address listed on the summons;

(c) By facsimile to the facsimile number listed on the summons. Service by facsimile is complete upon successful transmission to the facsimile number listed upon the summons;

(d) As otherwise authorized by the superior court civil rules.

(3) The summons for unlawful detainer actions for tenancies covered by this chapter shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON
IN AND
FOR COUNTY

Plaintiff/ Landlord/ Owner,	}	NO.
vs.		EVICITION SUMMONS
Defendant/ Tenant/ Occupant.	}	(Residential)

THIS IS AN IMPORTANT LEGAL DOCUMENT TO EVICT YOU.
YOUR **WRITTEN**

RESPONSE MUST BE RECEIVED BY: 5:00 p.m., on

TO: (Defendant's Name)
. (Defendant's Address)

GET HELP: If you do not respond by the deadline above, you will lose your right to defend yourself or be represented by a lawyer if you cannot afford one in court and could be evicted. ((If you cannot afford a lawyer)) The court may be able to appoint a lawyer to represent you without cost to you if you are low-income and are unable to afford a lawyer. If you believe you are a qualifying low-income renter and would like an attorney appointed to represent you, please contact the Eviction Defense Screening Line at 855-657-8387 or apply online at <https://nwjustice.org/apply-online>. For additional resources, you may call 2-1-1 or the Northwest Justice Project CLEAR Hotline outside King County (888) 201-1014 weekdays between 9:15 a.m. - 12:15 p.m., or (888) 387-7111 for seniors (age 60 and over). ((They can refer you to free or low-cost legal help-)) You may find additional information to help you at <http://www.washingtonlawhelp.org>. Free or low-cost mediation services to assist in nonpayment of rent disputes before any judicial proceedings occur are also available at dispute resolution centers throughout the state. You can find your nearest dispute resolution center at <https://www.resolutionwa.org>.

HOW TO RESPOND: Phone calls to your Landlord or your Landlord's lawyer are not a response. You may respond with a "notice of appearance." This is a letter that includes the following:

- (1) A statement that you are appearing in the court case
- (2) Names of the landlord(s) and the tenant(s) (as listed above)
- (3) Your name, your address where legal documents may be sent, your signature, phone number (if any), and case number (if the case is filed)

This case is / is not filed with the court. If this case is filed, you need to also file your response with the court by delivering a copy to the clerk of the court at: (Clerk's Office/Address/Room number/Business hours of court clerk)

WHERE TO RESPOND: You must mail, fax, or hand deliver your response letter to your Landlord's lawyer, or if no lawyer is named in the

complaint, to your Landlord. If you mail the response letter, you must do it 3 days before the deadline above. Request receipt of a proof of mailing from the post office. If you hand deliver or fax it, you must do it by the deadline above. The address is:

- (Attorney/Landlord Name)
- (Address)
- (Fax - required if available)

COURT DATE: If you respond to this Summons, you will be notified of your hearing date in a document called an "Order to Show Cause." This is usually mailed to you. If you get notice of a hearing, **you must go to the hearing.** If you do not show up, your landlord can evict you. Your landlord might also charge you more money. If you move before the court date, you must tell your landlord or the landlord's attorney.

LANDLORD ACCESS TO RENTAL ASSISTANCE PROGRAMS

***NEW SECTION. Sec. 12.** A new section is added to chapter 43.185C RCW to read as follows:

(1) The department must authorize landlords an opportunity to apply to the following programs, if feasible, and establish application and eligibility requirements and any conditions on the receipt of funds as the department deems appropriate:

- (a) Rental assistance provided through the consolidated homeless grant program;*
- (b) Rental assistance provided through the emergency solutions grant program; and*
- (c) Any rental assistance program funded through receipt of any federal COVID-19 relief funds.*

(2) Until March 31, 2022, the department must provide rental assistance directly to a landlord on behalf of an indigent tenant who is unable to:

- (a) Access an eviction resolution pilot program, as described in section 7 of this act, because such a program is either not available in the region in which the property is located or the regional program is not accepting new claims; or*
- (b) Obtain legal representation as described in section 8 of this act.*

(3) For the purposes of this section, "indigent" has the same meaning as section 8(2) of this act.

**Sec. 12 was vetoed. See message at end of chapter.*

***NEW SECTION. Sec. 13.** The sum of \$7,500,000 for the fiscal biennium ending June 30, 2023, is appropriated from the coronavirus state fiscal recovery fund created in Engrossed Substitute Senate Bill No. 5092 (operating budget) to the department of commerce for the purposes of a landlord grant assistance program to provide grants to eligible landlords for rent that was not paid during the eviction moratorium pursuant to the governor's proclamation 20-19.6. The department shall have such rule-making authority as the department deems necessary to administer the program.

(1) To be eligible for a grant under this section, a landlord must:

- (a) Apply for a grant or have a property manager or property management company apply for a grant on behalf of a landlord;*
- (b) Be the sole investor in the property from which they are seeking rental arrears;*

(c) Be the owner of no more than 10 dwelling units from which they receive rental payments; and

(d) Provide proof of ownership of the property and a statement certified under penalty of perjury of the amount of rent due during the eviction moratorium that the landlord was not paid by the tenant, through funds acquired through an emergency rental assistance program provided by a governmental or nonprofit entity, through the state landlord mitigation program defined in RCW 43.31.605, or through any other means that would reasonably be considered payment of rent due.

(2) Eligible landlords may receive a grant of up to 80 percent of the total amount of rent in arrears.

(3) The department will disburse funds to eligible landlords within 60 days of submission of the application. Eligibility for a grant under this section does not constitute an entitlement for payment. If eligible applications for grants exceed the funds appropriated in this section, the department must create and maintain a waitlist in the order the applications are received pursuant to this section. The department shall not be civilly or criminally liable and may not have any penalty or cause of action of any nature arise against it regarding the provision or lack of provision of funds.

(4) The department shall provide a report to the appropriate committees of the legislature by September 30, 2023, which shall include the number of eligible applicants who received grants and the total funds provided to such applicants, the number of eligible applicants on the waitlist who did not receive grants and the total amount of grants unpaid due to lack of funds, and the number of ineligible applicants and the reasons for ineligibility.

(5) A landlord who receives a grant under this section is prohibited from:

(a) Taking any legal action against the tenant for unpaid rent or damages attributable to the same tenancy; or

(b) Pursuing collection, or authorizing another entity to pursue collection on the landlord's behalf, against the tenant for unpaid rent or damages attributable to the same tenancy.

(6) This section expires December 31, 2024.

**Sec. 13 was vetoed. See message at end of chapter.*

OTHER TENANT PROTECTIONS

Sec. 14. RCW 59.12.040 and 2010 c 8 s 19007 are each amended to read as follows:

Any notice provided for in this chapter shall be served either (1) by delivering a copy personally to the person entitled thereto; or (2) if he or she be absent from the premises unlawfully held, by leaving there a copy, with some person of suitable age and discretion, and sending a copy through the mail addressed to the person entitled thereto at his or her place of residence; or (3) if the person to be notified be a tenant, or an unlawful holder of premises, and his or her place of residence is not known, or if a person of suitable age and discretion there cannot be found then by affixing a copy of the notice in a conspicuous place on the premises unlawfully held, and also delivering a copy to a person there residing, if such a person can be found, and also sending a copy through the mail addressed to the tenant, or unlawful occupant, at the place where the premises unlawfully held are situated. Service upon a subtenant may be made in the same manner: PROVIDED, That in cases where the tenant or

unlawful occupant, shall be conducting a hotel, inn, lodging house, boarding house, or shall be renting rooms while still retaining control of the premises as a whole, that the guests, lodgers, boarders, or persons renting such rooms shall not be considered as subtenants within the meaning of this chapter, but all such persons may be served by affixing a copy of the notice to be served in two conspicuous places upon the premises unlawfully held; and such persons shall not be necessary parties defendant in an action to recover possession of said premises. Service of any notice provided for in this chapter may be had upon a corporation by delivering a copy thereof to any officer, agent, or person having charge of the business of such corporation, at the premises unlawfully held, and in case no such officer, agent, or person can be found upon such premises, then service may be had by affixing a copy of such notice in a conspicuous place upon said premises and by sending a copy through the mail addressed to such corporation at the place where said premises are situated. Proof of any service under this section may be made by the affidavit of the person making the same in like manner and with like effect as the proof of service of summons in civil actions. When a copy of notice is sent through the mail, as provided in this section, service shall be deemed complete when such copy is deposited in the United States mail in the county in which the property is situated properly addressed with postage prepaid: PROVIDED, HOWEVER, That when service is made by mail one additional day shall be allowed before the commencement of an action based upon such notice. ((RCW 59.18.375 may also apply to notice given under this chapter.))

Sec. 15. RCW 59.18.230 and 2020 c 315 s 6 and 2020 c 177 s 2 are each reenacted and amended to read as follows:

(1)(a) Any provision of a lease or other agreement, whether oral or written, whereby any section or subsection of this chapter is waived except as provided in RCW 59.18.360 and shall be deemed against public policy and shall be unenforceable. Such unenforceability shall not affect other provisions of the agreement which can be given effect without them.

(b) Any agreement, whether oral or written, between a landlord and tenant, or their representatives, and entered into pursuant to an unlawful detainer action under this chapter that requires the tenant to pay any amount in violation of RCW 59.18.283 or the statutory judgment amount limits under RCW 59.18.410 (1) or (2), or waives any rights of the tenant under RCW 59.18.410 or any other rights afforded under this chapter except as provided in RCW 59.18.360 is void and unenforceable. A landlord may not threaten a tenant with eviction for failure to pay nonpossessory charges limited under RCW 59.18.283.

(2) No rental agreement may provide that the tenant:

(a) Agrees to waive or to forgo rights or remedies under this chapter; or
 (b) Authorizes any person to confess judgment on a claim arising out of the rental agreement; or

(c) Agrees to pay the landlord's attorneys' fees, except as authorized in this chapter; or

(d) Agrees to the exculpation or limitation of any liability of the landlord arising under law or to indemnify the landlord for that liability or the costs connected therewith; or

(e) And landlord have agreed to a particular arbitrator at the time the rental agreement is entered into; or

(f) Agrees to pay late fees for rent that is paid within five days following its due date. If rent is more than five days past due, the landlord may charge late fees commencing from the first day after the due date until paid. Nothing in this subsection prohibits a landlord from serving a notice to pay or vacate at any time after the rent becomes due.

(3) A provision prohibited by subsection (2) of this section included in a rental agreement is unenforceable. If a landlord deliberately uses a rental agreement containing provisions known by him or her to be prohibited, the tenant may recover actual damages sustained by him or her, statutory damages not to exceed ~~((five hundred dollars))~~ \$500, costs of suit, and reasonable attorneys' fees.

(4) The common law right of the landlord of distress for rent is hereby abolished for property covered by this chapter. Any provision in a rental agreement creating a lien upon the personal property of the tenant or authorizing a distress for rent is null and void and of no force and effect. Any landlord who takes or detains the personal property of a tenant without the specific written consent of the tenant to such incident of taking or detention, and who, after written demand by the tenant for the return of his or her personal property, refuses to return the same promptly shall be liable to the tenant for the value of the property retained, actual damages, and if the refusal is intentional, may also be liable for damages of up to ~~((five hundred dollars))~~ \$500 per day but not to exceed ~~((five thousand dollars))~~ \$5,000, for each day or part of a day that the tenant is deprived of his or her property. The prevailing party may recover his or her costs of suit and a reasonable attorneys' fee.

In any action, including actions pursuant to chapters 7.64 or 12.28 RCW, brought by a tenant or other person to recover possession of his or her personal property taken or detained by a landlord in violation of this section, the court, upon motion and after notice to the opposing parties, may waive or reduce any bond requirements where it appears to be to the satisfaction of the court that the moving party is proceeding in good faith and has, prima facie, a meritorious claim for immediate delivery or redelivery of said property.

Sec. 16. RCW 59.20.040 and 1999 c 359 s 3 are each amended to read as follows:

This chapter shall regulate and determine legal rights, remedies, and obligations arising from any rental agreement between a landlord and a tenant regarding a mobile home lot and including specified amenities within the mobile home park, mobile home park cooperative, or mobile home park subdivision, where the tenant has no ownership interest in the property or in the association which owns the property, whose uses are referred to as a part of the rent structure paid by the tenant. All such rental agreements shall be unenforceable to the extent of any conflict with any provision of this chapter. Chapter 59.12 RCW shall be applicable only in implementation of the provisions of this chapter and not as an alternative remedy to this chapter which shall be exclusive where applicable: PROVIDED, That the provision of RCW 59.12.090, 59.12.100, and 59.12.170 shall not apply to any rental agreement included under the provisions of this chapter. RCW 59.18.055 ~~((and 59.18.370))~~, section 8 of this act, 59.18.365, 59.18.370, and 59.18.380 through 59.18.410 shall be applicable to any action of forcible entry or detainer or unlawful detainer arising from a tenancy under the provisions of this chapter, except when a mobile home,

manufactured home, or park model or a tenancy in a mobile home lot is abandoned. Rentals of mobile homes, manufactured homes, or park models themselves are governed by the residential landlord-tenant act, chapter 59.18 RCW.

Sec. 17. RCW 59.18.410 and 2020 c 315 s 5 are each amended to read as follows:

(1) If at trial the verdict of the jury or, if the case is tried without a jury, the finding of the court is in favor of the landlord and against the tenant, judgment shall be entered for the restitution of the premises; and if the proceeding is for unlawful detainer after neglect or failure to perform any condition or covenant of a lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of the lease, agreement, or tenancy. The jury, or the court, if the proceedings are tried without a jury, shall also assess the damages arising out of the tenancy occasioned to the landlord by any forcible entry, or by any forcible or unlawful detainer, alleged in the complaint and proved at trial, and, if the alleged unlawful detainer is based on default in the payment of rent, find the amount of any rent due, and the judgment shall be rendered against the tenant liable for the forcible entry, forcible detainer, or unlawful detainer for the amount of damages thus assessed, for the rent, if any, found due, and late fees if such fees are due under the lease and do not exceed seventy-five dollars in total. The court may award statutory costs. The court may also award reasonable attorneys' fees as provided in RCW 59.18.290.

(2) When the tenant is liable for unlawful detainer after a default in the payment of rent, execution upon the judgment shall not occur until the expiration of five court days after the entry of the judgment. Before entry of a judgment or until five court days have expired after entry of the judgment, the tenant or any subtenant, or any mortgagee of the term, or other party interested in the continuance of the tenancy, may pay into court or to the landlord the amount of the rent due, any court costs incurred at the time of payment, late fees if such fees are due under the lease and do not exceed seventy-five dollars in total, and attorneys' fees if awarded, in which event any judgment entered shall be satisfied and the tenant restored to his or her tenancy. If the tenant seeks to restore his or her tenancy after entry of a judgment, the tenant may tender the amount stated within the judgment as long as that amount does not exceed the amount authorized under subsection (1) of this section. If a tenant seeks to restore his or her tenancy and pay the amount set forth in this subsection with funds acquired through an emergency rental assistance program provided by a governmental or nonprofit entity, the tenant shall provide a copy of the pledge of emergency rental assistance provided from the appropriate governmental or nonprofit entity and have an opportunity to exercise such rights under this subsection, which may include a stay of judgment and provision by the landlord of documentation necessary for processing the assistance. The landlord shall accept any pledge of emergency rental assistance funds provided to the tenant from a governmental or nonprofit entity before the expiration of any pay or vacate notice for nonpayment of rent for the full amount of the rent owing under the rental agreement. The landlord shall accept any written pledge of emergency rental assistance funds provided to the tenant from a governmental or nonprofit entity after the expiration of the pay or vacate notice if the pledge will contribute to the

total payment of both the amount of rent due, including any current rent, and other amounts if required under this subsection. The landlord shall suspend any court action for seven court days after providing necessary payment information to the nonprofit or governmental entity to allow for payment of the emergency rental assistance funds. By accepting such pledge of emergency rental assistance, the landlord is not required to enter into any additional conditions not related to the provision of necessary payment information and documentation. If a judgment has been satisfied, the landlord shall file a satisfaction of judgment with the court. A tenant seeking to exercise rights under this subsection shall pay an additional fifty dollars for each time the tenant was reinstated after judgment pursuant to this subsection within the previous twelve months prior to payment. If payment of the amount specified in this subsection is not made within five court days after the entry of the judgment, the judgment may be enforced for its full amount and for the possession of the premises.

(3)(a) Following the entry of a judgment in favor of the landlord and against the tenant for the restitution of the premises and forfeiture of the tenancy due to nonpayment of rent, the court, at the time of the show cause hearing or trial, or upon subsequent motion of the tenant but before the execution of the writ of restitution, may stay the writ of restitution upon good cause and on such terms that the court deems fair and just for both parties. In making this decision, the court shall consider evidence of the following factors:

(i) The tenant's willful or intentional default or intentional failure to pay rent;

(ii) Whether nonpayment of the rent was caused by exigent circumstances that were beyond the tenant's control and that are not likely to recur;

(iii) The tenant's ability to timely pay the judgment;

(iv) The tenant's payment history;

(v) Whether the tenant is otherwise in substantial compliance with the rental agreement;

(vi) Hardship on the tenant if evicted; and

(vii) Conduct related to other notices served within the last six months.

(b) The burden of proof for such relief under this subsection (3) shall be on the tenant. If the tenant seeks relief pursuant to this subsection (3) at the time of the show cause hearing, the court shall hear the matter at the time of the show cause hearing or as expeditiously as possible so as to avoid unnecessary delay or hardship on the parties.

(c) In any order issued pursuant to this subsection (3):

(i) The court shall not stay the writ of restitution more than ninety days from the date of order, but may order repayment of the judgment balance within such time. If the payment plan is to exceed thirty days, the total cumulative payments for each thirty-day period following the order shall be no less than one month of the tenant's share of the rent, and the total amount of the judgment and all additional rent that is due shall be paid within ninety days.

(ii) Within any payment plan ordered by the court, the court shall require the tenant to pay to the landlord or to the court one month's rent within five court days of issuance of the order. If the date of the order is on or before the fifteenth of the month, the tenant shall remain current with ongoing rental payments as they become due for the duration of the payment plan; if the date of the order is after the fifteenth of the month, the tenant shall have the option to apportion the

following month's rental payment within the payment plan, but monthly rental payments thereafter shall be paid according to the rental agreement.

(iii) The sheriff may serve the writ of restitution upon the tenant before the expiration of the five court days of issuance of the order; however, the sheriff shall not execute the writ of restitution until after expiration of the five court days in order for payment to be made of one month's rent as required by (c)(ii) of this subsection. In the event payment is made as provided in (c)(ii) of this subsection for one month's rent, the court shall stay the writ of restitution ex parte without prior notice to the landlord upon the tenant filing and presenting a motion to stay with a declaration of proof of payment demonstrating full compliance with the required payment of one month's rent. Any order staying the writ of restitution under this subsection (3)(c)(iii) shall require the tenant to serve a copy of the order on the landlord by personal delivery, first-class mail, facsimile, or email if agreed to by the parties.

(A) If the tenant has satisfied (c)(ii) of this subsection by paying one month's rent within five court days, but defaults on a subsequent payment required by the court pursuant to this subsection (3)(c), the landlord may enforce the writ of restitution after serving a notice of default in accordance with RCW 59.12.040 informing the tenant that he or she has defaulted on rent due under the lease agreement or payment plan entered by the court. Upon service of the notice of default, the tenant shall have three calendar days from the date of service to vacate the premises before the sheriff may execute the writ of restitution.

(B) If the landlord serves the notice of default described under this subsection (3)(c)(iii), an additional day is not included in calculating the time before the sheriff may execute the writ of restitution. The notice of default must be in substantially the following form:

NOTICE OF DEFAULT FOR RENT AND/OR PAYMENT PLAN ORDERED
BY COURT

NAME(S)
ADDRESS
CITY, STATE, ZIP

THIS IS NOTICE THAT YOU ARE IN DEFAULT OF YOUR RENT
AND/OR PAYMENT PLAN ORDERED BY THE COURT. YOUR
LANDLORD HAS RECEIVED THE FOLLOWING PAYMENTS:

DATE
AMOUNT
DATE
AMOUNT
DATE
AMOUNT

THE LANDLORD MAY SCHEDULE YOUR PHYSICAL EVICTION
WITHIN THREE CALENDAR DAYS OF SERVICE OF THIS NOTICE.
TO STOP A PHYSICAL EVICTION, YOU ARE REQUIRED TO PAY
THE BALANCE OF YOUR RENT AND/OR PAYMENT PLAN IN THE
AMOUNT OF \$

PAYMENT MAY BE MADE TO THE COURT OR TO THE LANDLORD. IF YOU FAIL TO PAY THE BALANCE WITHIN THREE CALENDAR DAYS, THE LANDLORD MAY PROCEED WITH A PHYSICAL EVICTION FOR POSSESSION OF THE UNIT THAT YOU ARE RENTING.

DATE

SIGNATURE

LANDLORD/AGENT

NAME

ADDRESS

PHONE

(iv) If a tenant seeks to satisfy a condition of this subsection (3)(c) by relying on an emergency rental assistance program provided by a government or nonprofit entity and provides an offer of proof, the court shall stay the writ of restitution as necessary to afford the tenant an equal opportunity to comply.

(v) The court shall extend the writ of restitution as necessary to enforce the order issued pursuant to this subsection (3)(c) in the event of default.

(d) A tenant who has been served with three or more notices to pay or vacate for failure to pay rent as set forth in RCW 59.12.040 within twelve months prior to the notice to pay or vacate upon which the proceeding is based may not seek relief under this subsection (3).

(e)(i) In any application seeking relief pursuant to this subsection (3) by either the tenant or landlord, the court shall issue a finding as to whether the tenant is low-income, limited resourced, or experiencing hardship to determine if the parties would be eligible for disbursement through the landlord mitigation program account established within RCW 43.31.605(1)(c). In making this finding, the court may include an inquiry regarding the tenant's income relative to area median income, household composition, any extenuating circumstances, or other factors, and may rely on written declarations or oral testimony by the parties at the hearing.

(ii) After a finding that the tenant is low-income, limited resourced, or experiencing hardship, the court may issue an order: (A) Finding that the landlord is eligible to receive on behalf of the tenant and may apply for reimbursement from the landlord mitigation program; and (B) directing the clerk to remit, without further order of the court, any future payments made by the tenant in order to reimburse the department of commerce pursuant to RCW 43.31.605(1)(c)(iii). In accordance with RCW 43.31.605(1)(c), such an order must be accompanied by a copy of the order staying the writ of restitution. Nothing in this subsection (3)(e) shall be deemed to obligate the department of commerce to provide assistance in claim reimbursement through the landlord mitigation program if there are not sufficient funds.

(iii) If the department of commerce fails to disburse payment to the landlord for the judgment pursuant to this subsection (3)(e) within thirty days from submission of the application, the landlord may renew an application for a writ of restitution pursuant to RCW 59.18.370 and for other rent owed by the tenant since the time of entry of the prior judgment. In such event, the tenant may exercise rights afforded under this section.

(iv) Upon payment by the department of commerce to the landlord for the remaining or total amount of the judgment, as applicable, the judgment is satisfied and the landlord shall file a satisfaction of judgment with the court.

(v) Nothing in this subsection (3)(e) prohibits the landlord from otherwise applying for reimbursement for an unpaid judgment pursuant to RCW 43.31.605(1)(c) after the tenant defaults on a payment plan ordered pursuant to (c) of this subsection.

(vi) For the period extending one year beyond the expiration of the eviction moratorium, if a tenant demonstrates an ability to pay in order to reinstate the tenancy by means of disbursement through the landlord mitigation program account established within RCW 43.31.605(1)(c):

(A) Any restrictions imposed under (d) of this subsection do not apply in determining if a tenant is eligible for reinstatement under this subsection (3); and

(B) Reimbursement on behalf of the tenant to the landlord under RCW 43.31.605(1)(c) may include up to three months of prospective rent to stabilize the tenancy as determined by the court.

(4) If a tenant seeks to stay a writ of restitution issued pursuant to this chapter, the court may issue an ex parte stay of the writ of restitution provided the tenant or tenant's attorney submits a declaration indicating good faith efforts were made to notify the other party or, if no efforts were made, why notice could not be provided prior to the application for an ex parte stay, and describing the immediate or irreparable harm that may result if an immediate stay is not granted. The court shall require service of the order and motion to stay the writ of restitution by personal delivery, mail, facsimile, or other means most likely to afford all parties notice of the court date.

(5) In all other cases the judgment may be enforced immediately. If a writ of restitution shall have been executed prior to judgment no further writ or execution for the premises shall be required.

(6) This section also applies if the writ of restitution is issued pursuant to a final judgment entered after a show cause hearing conducted in accordance with RCW 59.18.380.

NEW SECTION. Sec. 18. This act does not apply to assisted living facilities licensed under chapter 18.20 RCW, to nursing homes licensed under chapter 18.51 RCW, to adult family homes licensed under chapter 70.128 RCW, or to continuing care retirement communities registered under chapter 18.390 RCW.

NEW SECTION. Sec. 19. RCW 59.18.375 (Forcible entry or detainer or unlawful detainer actions—Payment of rent into court registry—Writ of restitution—Notice) and 2008 c 75 s 2, 2006 c 51 s 2, & 1983 c 264 s 13 are each repealed.

NEW SECTION. Sec. 20. Sections 2 through 4 of this act supersede any other provisions within chapter 59.18 or 59.12 RCW, or chapter 59.20 RCW as applicable, that conflict with sections 2 through 4 of this act.

NEW SECTION. Sec. 21. 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 19, 2021.

Passed by the House April 8, 2021.

Approved by the Governor April 22, 2021, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 22, 2021.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 12 and 13, Engrossed Second Substitute Senate Bill No. 5160 entitled:

"AN ACT Relating to addressing landlord-tenant relations by providing certain tenant protections during the public health emergency, providing for legal representation in eviction cases, establishing an eviction resolution pilot program for nonpayment of rent cases, and authorizing landlord access to certain rental assistance programs."

While Section 12 attempts to provide direct financial relief to landlords as part of a larger legislative solution in E2SSB 5160, it creates an entitlement for landlords to receive rent assistance without a sufficient framework to prioritize resources to those landlords who have the greatest need. The estimated cost of Section 12 is \$2.4 billion, which is \$1.5 billion more than is currently appropriated by the state or awarded by the federal government. RCW 43.88.055 requires the Legislature to enact an operating budget that leaves a positive ending fund balance at the end of the fiscal biennium. Although the final budget will likely have a different ending fund balance than is reflected today, \$1.5 billion in additional costs could not be sustained by available fiscal resources. In order to ensure that the Legislature meets its statutory obligation to leave a positive ending fund balance at the end of the 2021-23 biennium, I am vetoing Section 12 of this bill at the request of legislative leadership.

In addition, Section 13 is largely duplicative of an early action bill that I have already signed, ESHB 1368, which provides \$2 million in grant opportunities for eligible landlords. Because of this, Section 13 creates administrative problems for the department of commerce, and may also cause confusion for landlords. As a result, again at the request of legislative leadership, I am also vetoing Section 13.

The Legislature and I agree it is important to provide resources to landlords, and to prioritize assisting those landlords who have a small number of units. If the Legislature wants to increase support for landlords who have a small number of units, I encourage the Legislature to increase funding to the program already created in the early action bill rather than creating redundant programs.

For these reasons I have vetoed Sections 12 and 13 of Engrossed Second Substitute Senate Bill No. 5160.

With the exception of Sections 12 and 13, Engrossed Second Substitute Senate Bill No. 5160 is approved."

CHAPTER 116

[Second Substitute House Bill 1033]

CUSTOMIZED EMPLOYMENT TRAINING PROGRAM TAX CREDIT—EXTENSION

AN ACT Relating to the Washington customized employment training program; amending RCW 82.04.449; creating new sections; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that due to the COVID-19 pandemic, there is new urgency for employer-affordable programs supporting worker training. It is the objective of the legislature to aid in the recruiting, retaining, and expanding of existing small businesses in Washington by extending the expiration of the customized employment training program tax credit to July 1, 2026.

NEW SECTION. Sec. 2. (1) This section is the tax preference performance statement for the tax preference contained in section 3, chapter . . . , Laws of 2021 (section 3 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to accomplish a general purpose, to provide customized workforce development and skill development training that enhance worker skill sets.

(3) It is the legislature's specific public policy objective to provide customized training assistance that retains and expands existing businesses in Washington.

(4) If a review finds that 75 percent of participating businesses complete the training and repay the customized employment training program loan, then the legislature intends to extend the expiration date of this tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any data collected by the state.

Sec. 3. RCW 82.04.449 and 2017 c 135 s 20 are each amended to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for participants in the Washington customized employment training program created in RCW 28B.67.020. The credit allowed under this section is equal to (~~fifty~~) 50 percent of the value of a participant's payments to the employment training finance account created in RCW 28B.67.030. If a participant in the program does not meet the requirements of RCW 28B.67.020(2)(b)(ii), the participant must remit to the department the value of any credits taken plus interest. The credit earned by a participant in one calendar year may be carried over to be credited against taxes incurred in a subsequent calendar year. No credit may be allowed for repayment of training allowances received from the Washington customized employment training program on or after July 1, (~~(2024)~~) 2026.

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

(3) By December 31, 2024, the college board, as defined in RCW 28B.50.030, shall submit to the higher education committees of the legislature a report on:

- (a) Industries supported by the program;
- (b) The geographical location of companies utilizing the program;
- (c) The number of employees trained;
- (d) The types of occupations included in the training;
- (e) The wages of employees trained prior to program entrance and the wage growth one year after training;
- (f) Retention of employees for a period of one year after training; and
- (g) Credential attainment of employees upon completion of the training, if applicable.

NEW SECTION. **Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2021.

Passed by the House March 3, 2021.

Passed by the Senate April 11, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 117

[House Bill 1034]

PARK AND RECREATION DISTRICT LEVIES—LIMIT—ISLANDS IN LARGE COUNTIES

AN ACT Relating to park and recreation district levies; amending RCW 36.69.145, 84.52.010, and 84.52.043; creating a new section; and providing an expiration date.

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

Sec. 1. RCW 36.69.145 and 2010 c 106 s 303 are each amended to read as follows:

(1) A park and recreation district may impose regular property tax levies in an amount equal to ~~((sixty))~~ 60 cents or less per ~~((thousand dollars))~~ \$1,000 of assessed value of property in the district in each year for six consecutive years when specifically authorized so to do by a majority of at least three-fifths of the voters thereof approving a proposition authorizing the levies submitted at a special election or at the regular election of the district, at which election the number of voters voting "yes" on the proposition must constitute three-fifths of a number equal to ~~((forty))~~ 40 per centum of the number of voters voting in such district at the last preceding general election when the number of voters voting on the proposition does not exceed ~~((forty))~~ 40 per centum of the number of voters voting in such taxing district in the last preceding general election; or by a majority of at least three-fifths of the voters thereof voting on the proposition if the number of voters voting on the proposition exceeds ~~((forty))~~ 40 per centum of the number of voters voting in such taxing district in the last preceding general election. A proposition authorizing the tax levies may not be submitted by a park and recreation district more than twice in any ~~((twelve))~~ 12-month period. Ballot propositions must conform with RCW 29A.36.210. ~~((In the event a park and recreation district is levying property taxes, which in combination with property taxes levied by other taxing districts subject to the one percent limitation provided for in Article 7, section 2, of our state Constitution result in taxes in excess of the limitation provided for in RCW 84.52.043(2), the park and recreation district property tax levy must be reduced or eliminated as provided in RCW 84.52.010.))~~

(2) The limitation in RCW 84.55.010 does not apply to the first levy imposed under this section following the approval of the levies by the voters under subsection (1) of this section.

Sec. 2. RCW 84.52.010 and 2017 c 196 s 10 are each amended to read as follows:

(1) Except as is permitted under RCW 84.55.050, all taxes must be levied or voted in specific amounts.

(2) The rate percent of all taxes for state and county purposes, and purposes of taxing districts coextensive with the county, must be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the county, as shown by the completed tax rolls of the county, and the rate percent of all taxes levied for purposes of taxing districts within any county must be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the taxing districts respectively.

(3) When a county assessor finds that the aggregate rate of tax levy on any property, that is subject to the limitations set forth in RCW 84.52.043 or 84.52.050, exceeds the limitations provided in either of these sections, the assessor must recompute and establish a consolidated levy in the following manner:

(a) The full certified rates of tax levy for state, county, county road district, regional transit authority, and city or town purposes must be extended on the tax rolls in amounts not exceeding the limitations established by law; however, any state levy takes precedence over all other levies and may not be reduced for any purpose other than that required by RCW 84.55.010. If, as a result of the levies imposed under RCW 36.54.130, 36.69.145 by a park and recreation district described under (a)(vii) of this subsection (3), 84.34.230, 84.52.069, 84.52.105, the portion of the levy by a metropolitan park district that was protected under RCW 84.52.120, 84.52.125, 84.52.135, and 84.52.140, and the portion of the levy by a flood control zone district that was protected under RCW 84.52.816, the combined rate of regular property tax levies that are subject to the one percent limitation exceeds one percent of the true and fair value of any property, then these levies must be reduced as follows:

(i) The portion of the levy by a flood control zone district that was protected under RCW 84.52.816 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(ii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.140 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(iii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a fire protection district or regional fire protection service authority that is protected under RCW 84.52.125 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(iv) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.135 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(v) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any

property, the levy imposed by a ferry district under RCW 36.54.130 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(vi) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a metropolitan park district that is protected under RCW 84.52.120 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(vii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the levies imposed under RCW 36.69.145 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated. This subsection (3)(a)(vii) only applies to a park and recreation district located on an island and within a county with a population exceeding 2,000,000:

(viii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the levies imposed under RCW 84.34.230, 84.52.105, and any portion of the levy imposed under RCW 84.52.069 that is in excess of ((thirty)) 30 cents per ((thousand dollars)) \$1,000 of assessed value, must be reduced on a pro rata basis until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated; and

((viii)) (ix) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the ((thirty)) 30 cents per ((thousand dollars)) \$1,000 of assessed value of tax levy imposed under RCW 84.52.069 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or eliminated.

(b) The certified rates of tax levy subject to these limitations by all junior taxing districts imposing taxes on such property must be reduced or eliminated as follows to bring the consolidated levy of taxes on such property within the provisions of these limitations:

(i) First, the certified property tax levy authorized under RCW 84.52.821 must be reduced on a pro rata basis or eliminated;

(ii) Second, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of those junior taxing districts authorized under RCW 36.68.525, 36.69.145 except a park and recreation district described under (a)(vii) of this subsection, 35.95A.100, and 67.38.130 must be reduced on a pro rata basis or eliminated;

(iii) Third, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of flood control zone districts other than the portion of a levy protected under RCW 84.52.816 must be reduced on a pro rata basis or eliminated;

(iv) Fourth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of all other junior taxing districts, other than fire protection districts, regional fire protection service authorities, library districts, the first ((fifty)) 50 cent per ((thousand dollars)) \$1,000 of assessed valuation levies for metropolitan park districts, and the first ((fifty)) 50 cent per

~~((thousand dollars))~~ \$1,000 of assessed valuation levies for public hospital districts, must be reduced on a pro rata basis or eliminated;

(v) Fifth, if the consolidated tax levy rate still exceeds these limitations, the first ~~((fifty))~~ 50 cent per ~~((thousand dollars))~~ \$1,000 of assessed valuation levies for metropolitan park districts created on or after January 1, 2002, must be reduced on a pro rata basis or eliminated;

(vi) Sixth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized to fire protection districts under RCW 52.16.140 and 52.16.160 and regional fire protection service authorities under RCW 52.26.140(1) (b) and (c) must be reduced on a pro rata basis or eliminated; and

(vii) Seventh, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized for fire protection districts under RCW 52.16.130, regional fire protection service authorities under RCW 52.26.140(1)(a), library districts, metropolitan park districts created before January 1, 2002, under their first ~~((fifty))~~ 50 cent per ~~((thousand dollars))~~ \$1,000 of assessed valuation levy, and public hospital districts under their first ~~((fifty))~~ 50 cent per ~~((thousand dollars))~~ \$1,000 of assessed valuation levy, must be reduced on a pro rata basis or eliminated.

Sec. 3. RCW 84.52.043 and 2020 c 253 s 3 are each amended to read as follows:

Within and subject to the limitations imposed by RCW 84.52.050 as amended, the regular ad valorem tax levies upon real and personal property by the taxing districts hereafter named are as follows:

(1) Levies of the senior taxing districts are as follows: (a) The levies by the state may not exceed the applicable aggregate rate limit specified in RCW 84.52.065 (2) or (4) adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue to be used exclusively for the support of the common schools; (b) the levy by any county may not exceed one dollar and ~~((eighty))~~ 80 cents per ~~((thousand dollars))~~ \$1,000 of assessed value; (c) the levy by any road district may not exceed two dollars and ~~((twenty-five))~~ 25 cents per ~~((thousand dollars))~~ \$1,000 of assessed value; and (d) the levy by any city or town may not exceed three dollars and ~~((thirty-seven and one-half))~~ 37.5 cents per ~~((thousand dollars))~~ \$1,000 of assessed value. However, any county is hereby authorized to increase its levy from one dollar and ~~((eighty))~~ 80 cents to a rate not to exceed two dollars and ~~((forty-seven and one-half))~~ 47.5 cents per ~~((thousand dollars))~~ \$1,000 of assessed value for general county purposes if the total levies for both the county and any road district within the county do not exceed four dollars and five cents per ~~((thousand dollars))~~ \$1,000 of assessed value, and no other taxing district has its levy reduced as a result of the increased county levy.

(2) The aggregate levies of junior taxing districts and senior taxing districts, other than the state, may not exceed five dollars and ~~((ninety))~~ 90 cents per ~~((thousand dollars))~~ \$1,000 of assessed valuation. The term "junior taxing districts" includes all taxing districts other than the state, counties, road districts, cities, towns, port districts, and public utility districts. The limitations provided in this subsection do not apply to: (a) Levies at the rates provided by existing law by or for any port or public utility district; (b) excess property tax levies authorized in Article VII, section 2 of the state Constitution; (c) levies for

acquiring conservation futures as authorized under RCW 84.34.230; (d) levies for emergency medical care or emergency medical services imposed under RCW 84.52.069; (e) levies to finance affordable housing imposed under RCW 84.52.105; (f) the portions of levies by metropolitan park districts that are protected under RCW 84.52.120; (g) levies imposed by ferry districts under RCW 36.54.130; (h) levies for criminal justice purposes under RCW 84.52.135; (i) the portions of levies by fire protection districts and regional fire protection service authorities that are protected under RCW 84.52.125; (j) levies by counties for transit-related purposes under RCW 84.52.140; (k) the portion of the levy by flood control zone districts that are protected under RCW 84.52.816; ~~((and))~~ (l) levies imposed by a regional transit authority under RCW 81.104.175; and (m) levies imposed by any park and recreation district described under RCW 84.52.010(3)(a)(vii).

NEW SECTION. Sec. 4. This act applies to taxes levied for collection in calendar years 2022 through 2026.

NEW SECTION. Sec. 5. This act expires January 1, 2027.

Passed by the House April 12, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 118

[Engrossed Substitute House Bill 1109]

SEXUAL ASSAULT INVESTIGATIONS—REPORTS, REVIEWS, AND SURVIVOR RIGHTS

AN ACT Relating to supporting victims of sexual assault; amending RCW 5.70.005, 43.101.278, and 70.125.110; adding a new section to chapter 5.70 RCW; and declaring an emergency.

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

Sec. 1. RCW 5.70.005 and 2020 c 26 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) "Amplified DNA" means DNA generated during scientific analysis using a polymerase chain reaction.

(2) "Association" means the Washington association of sheriffs and police chiefs.

(3) "DNA work product" means (a) product generated during the process of scientific analysis of such material, except amplified DNA, material that had been subjected to DNA extraction, screening by-products, and DNA extracts from reference samples; or (b) any material contained on a microscope slide, swab, in a sample tube, cutting, DNA extract, or some other similar retention method used to isolate potential biological evidence that has been collected by law enforcement or a forensic nurse as part of an investigation and prepared for scientific analysis, whether or not it is submitted for scientific analysis and derived from:

- (i) The contents of a sexual assault examination kit;
- (ii) Blood;

- (iii) Semen;
- (iv) Hair;
- (v) Saliva;
- (vi) Skin tissue;
- (vii) Fingerprints;
- (viii) Bones;
- (ix) Teeth; or
- (x) Any other identifiable human biological material or physical evidence.

Notwithstanding the foregoing, "DNA work product" does not include a reference sample collected unless it has been shown through DNA comparison to associate the source of the sample with the criminal case for which it was collected.

~~((3))~~ (4) "Governmental entity" means any general law enforcement agency or any person or organization officially acting on behalf of the state or any political subdivision of the state involved in the collection, examination, tracking, packaging, storing, or disposition of biological material collected in connection with a criminal investigation relating to a felony offense.

~~((4))~~ (5) "Investigational status" means:

(a) The agency case or incident number;

(b) The date the request for forensic examination of the sexual assault kit was submitted to the Washington state patrol crime laboratory;

(c) The date the forensic examination was complete and reported to the law enforcement agency;

(d) Whether the case is open or closed;

(e) Whether the case was reopened as a result of the hit in the combined DNA index system;

(f) For open cases, whether the case remains:

(i) An active investigation;

(ii) Open pending forensic examination results; or

(iii) Open and inactive, in which case the agency must include a brief description as to why the case is inactive; and

(g) For closed cases, whether the case was closed as a result of:

(i) A referral for prosecution where charges were filed or the prosecutor is reviewing the case;

(ii) A referral for prosecution where the prosecutor declined to file charges based on the case being legally insufficient;

(iii) A referral for prosecution where the prosecutor declined to file charges because the case failed to meet prosecutorial charging standards;

(iv) After reviewing the results of the forensic examination, there was no evidence that a crime occurred, or there was lack of probable cause that a crime occurred;

(v) The inability to locate the victim or lack of victim participation; or

(vi) Any other reason, in which case the agency must include a brief description as to why the case closed.

(6) "Reference sample" means a known sample collected from an individual by a governmental entity for the purpose of comparison to DNA profiles developed in a criminal case.

~~((5))~~ (7) "Screening by-product" means a product or waste generated during examination of DNA evidence, or the screening process of such evidence, that is not intended for long-term storage.

~~((6))~~ (8) "Sexual assault kit" includes all evidence collected during a sexual assault medical forensic examination.

~~((7))~~ (9) "Unreported sexual assault kit" means a sexual assault kit where a law enforcement agency has not received a related report or complaint alleging a sexual assault or other crime has occurred.

NEW SECTION. **Sec. 2.** A new section is added to chapter 5.70 RCW to read as follows:

(1) For any sexual assault kit under RCW 5.70.050 where forensic analysis has generated a profile that has resulted in a hit in the combined DNA index system, the office of the attorney general shall request information from the applicable law enforcement agency and prosecuting attorney as to the case status of any related criminal investigation and prosecution, including information as provided under RCW 5.70.005(5) as well as any other relevant information. The law enforcement agency and prosecuting attorney shall provide requested case status updates to the office of the attorney general. The office of the attorney general shall consult with the association when developing any procedures for requesting and collecting case status updates under this section.

(2) Nothing in this section may be interpreted to require any law enforcement agency or prosecuting attorney to disclose any information that would jeopardize an active criminal investigation or prosecution.

(3) The attorney general's office shall report quarterly to the association the investigational status of any sexual assault kit under RCW 5.70.050.

(4) Beginning in 2022, in consultation with the attorney general's office, the association must submit reports on the information collected pursuant to this section to the governor and appropriate committees of the legislature by January 1st and July 1st of each year.

Sec. 3. RCW 43.101.278 and 2020 c 26 s 8 are each amended to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the commission shall ~~((develop a proposal for a))~~ conduct an annual case review program. The ~~((commission shall research, design, and develop case review strategies designed to optimize outcomes in sexual assault investigations through improved))~~ program must review case files from law enforcement agencies and prosecuting attorneys selected by the commission in order to identify changes to training and investigatory practices necessary to optimize outcomes in sexual assault investigations and prosecutions involving adult victims. The ~~((proposed))~~ program must ~~((evaluate))~~ include:

(a) An evaluation of whether current training and practices foster a trauma-informed, victim-centered approach to victim interviews and that identifies best practices and current gaps in training and assesses the integration of the community resiliency model~~((The program will include a));~~

(b) A comparison of cases involving investigators and interviewers who have participated in training to cases involving investigators and interviewers who have not participated in training~~((The program will also include other randomly));~~

(c) Randomly selected cases for a systematic review to assess whether current practices conform to national best practices for a multidisciplinary approach to investigating sexual assault cases and interacting with survivors; and

(d) An analysis of the impact that race and ethnicity have on sexual assault case outcomes.

(2) The case review program may review and access files, including all reports and recordings, pertaining to closed cases involving allegations of adult sexual assault only. Any law enforcement agency or prosecuting attorney selected for the program by the commission shall make requested case files and other documents available to the commission, provided that the case files are not linked to ongoing, open investigations and that redactions may be made where appropriate and necessary. Agencies and prosecuting attorneys shall include available information on the race and ethnicity of all sexual assault victims in the relevant case files provided to the commission. Case files and other documents must be made available to the commission according to appropriate deadlines established by the commission in consultation with the agency or prosecuting attorney.

(3) If a law enforcement agency has not participated in the training under RCW 43.101.272 by July 1, 2022, the commission may prioritize the agency for selection to participate in the program under this section.

(4) In designing and conducting the program, the commission shall consult and collaborate with experts in trauma-informed and victim-centered training, experts in sexual assault investigations and prosecutions, victim advocates, and other stakeholders identified by the commission. The commission may form a multidisciplinary working group for the purpose of carrying out the requirements of this section.

~~((3))~~ (5) The commission shall submit a report with a summary of its ((proposal)) work to the governor and the appropriate committees of the legislature by December ((1, 2020)) 1st of each year.

~~((4) This section expires July 1, 2021.)~~

Sec. 4. RCW 70.125.110 and 2019 c 93 s 9 are each amended to read as follows:

(1) In addition to all other rights provided in law, a sexual assault survivor has the right to:

(a) Receive a medical forensic examination at no cost;

(b) Receive written notice of the right under (a) of this subsection and that he or she may be eligible for other benefits under the crime victim compensation program, through a form developed by the office of crime victims advocacy, from the medical facility providing the survivor medical treatment relating to the sexual assault;

(c) Receive a referral to an accredited community sexual assault program or, in the case of a survivor who is a minor, receive a connection to services in accordance with the county child sexual abuse investigation protocol under RCW 26.44.180, which may include a referral to a children's advocacy center, when presenting at a medical facility for medical treatment relating to the assault and also when reporting the assault to a law enforcement officer;

(d) Consult with a sexual assault survivor's advocate throughout the investigatory process and prosecution of the survivor's case, including during ((any)): Any medical evidentiary examination ((and during)) at a medical

facility; any interview by law enforcement officers, prosecuting attorneys, or defense attorneys ~~(, unless an advocate cannot be summoned in a timely manner);~~ and court proceedings, except while providing testimony in a criminal trial, in which case the advocate may be present in the courtroom. Medical facilities, law enforcement officers, prosecuting attorneys, defense attorneys, courts and other applicable criminal justice agencies, including correctional facilities, are responsible for providing advocates access to facilities where necessary to fulfill the requirements under this subsection. The right in this subsection applies regardless of whether a survivor has waived the right in a previous examination or interview;

~~((e))~~ (e) Be informed, upon the request of a survivor, of when the forensic analysis of his or her sexual assault kit and other related physical evidence will be or was completed, the results of the forensic analysis, and whether the analysis yielded a DNA profile and match, provided that the disclosure is made at an appropriate time so as to not impede or compromise an ongoing investigation;

~~((f))~~ (f) Receive notice prior to the destruction or disposal of his or her sexual assault kit;

~~((g))~~ (g) Receive a copy of the police report related to the investigation without charge; ~~(and~~

~~((h))~~ (h) Review his or her statement before law enforcement refers a case to the prosecuting attorney;

(i) Receive timely notifications from the law enforcement agency and prosecuting attorney as to the status of the investigation and any related prosecution of the survivor's case;

(j) Be informed by the law enforcement agency and prosecuting attorney as to the expected and appropriate time frames for receiving responses to the survivor's inquiries regarding the status of the investigation and any related prosecution of the survivor's case; and further, receive responses to the survivor's inquiries in a manner consistent with those time frames;

(k) Access interpreter services where necessary to facilitate communication throughout the investigatory process and prosecution of the survivor's case; and

(l) Where the sexual assault survivor is a minor, have:

(i) The prosecutor consider and discuss the survivor's requests for remote video testimony under RCW 9A.44.150 when appropriate; and

(ii) The court consider requests from the prosecutor for safeguarding the survivor's feelings of security and safety in the courtroom in order to facilitate the survivor's testimony and participation in the criminal justice process.

(2) A sexual assault survivor retains all the rights of this section regardless of whether the survivor agrees to participate in the criminal justice system and regardless of whether the survivor agrees to receive a forensic examination to collect evidence.

(3) If a survivor is denied any right enumerated in subsection (1) of this section, he or she may seek an order directing compliance by the relevant party or parties by filing a petition in the superior court in the county in which the sexual assault occurred and providing notice of such petition to the relevant party or parties. Compliance with the right is the sole remedy available to the survivor. The court shall expedite consideration of a petition filed under this subsection.

(4) Nothing contained in this section may be construed to provide grounds for error in favor of a criminal defendant in a criminal proceeding. Except in the circumstances as provided in subsection (3) of this section, this section does not grant a new cause of action or remedy against the state, its political subdivisions, law enforcement agencies, or prosecuting attorneys. The failure of a person to make a reasonable effort to protect or adhere to the rights enumerated in this section may not result in civil liability against that person. This section does not limit other civil remedies or defenses of the sexual assault survivor or the offender.

(5) For the purposes of this section:

(a) "Law enforcement officer" means a general authority Washington peace officer, as defined in RCW 10.93.020, or any person employed by a private police agency at a public school as described in RCW 28A.150.010 or an institution of higher education, as defined in RCW 28B.10.016.

(b) "Sexual assault survivor" means any person who is a victim, as defined in RCW 7.69.020, of sexual assault. However, if a victim is incapacitated, deceased, or a minor, sexual assault survivor also includes any lawful representative of the victim, including a parent, guardian, spouse, or other designated representative, unless the person is an alleged perpetrator or suspect.

(c) "Sexual assault survivor's advocate" means any person who is defined in RCW 5.60.060 as a sexual assault advocate, or a crime victim advocate.

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 House April 12, 2021.

Passed by the Senate March 29, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 119

[Engrossed Substitute House Bill 1113]

SCHOOL ATTENDANCE—TRUANCY PETITIONS

AN ACT Relating to school attendance; amending RCW 28A.225.015, 28A.225.030, 28A.225.151, 28A.225.030, 28A.225.151, 28A.225.020, 28A.225.025, 28A.225.026, 28A.225.0261, 28A.225.027, 28A.225.035, and 28A.225.090; adding new sections to chapter 28A.225 RCW; creating a new section; providing an effective date; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) The legislature acknowledges that student absences from school can be an indicator that the academic and social-emotional needs of the students are not being met in the public school or classroom or through the school culture or climate. Student absences can also signal to educators that families may need additional information and assistance in supporting student learning within the home.

(2) The legislature finds that as research and public awareness grows about the impact of school climate and culture on the academic and social-emotional experiences of students, the systems of public education must shift away from

enforcing punitive, compliance-focused policies and toward enabling constructive, student-centered practices. The legislature further finds that a student-centered system of public education serves the individual needs of students with strong family engagement and through integrated supports provided by the state, public schools, and the greater community.

(3) Therefore, the legislature intends to refocus the attendance policies and practices of the public education system to emphasize individualized student and family supports that are culturally responsive, evidence-informed, and show promising practice for integrating multiple systems of support to effectively improve consistent student attendance at school and family engagement in student learning.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.225 RCW to read as follows:

The office of the superintendent of public instruction shall develop and publish best practice guidance to eliminate or reduce student absences and to otherwise implement the requirements of this chapter. The guidance must focus on student and family engagement, be based in restorative justice practices, and emphasize integration of student and family support systems. The guidance must be developed in consultation with the educational opportunity gap oversight and accountability committee and updated periodically.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.225 RCW to read as follows:

The superintendent of public instruction may adopt rules necessary to carry out the purposes of this chapter.

Sec. 4. RCW 28A.225.015 and 2017 c 291 s 1 are each amended to read as follows:

(1) If a parent enrolls a child who is six or seven years of age in a public school, the child is required to attend and that parent has the responsibility to ensure the child attends for the full time that school is in session. An exception shall be made to this requirement for children whose parents formally remove them from enrollment if the child is less than eight years old and a petition has not been filed against the parent under subsection (3) of this section. The requirement to attend school under this subsection does not apply to a child enrolled in a public school part-time for the purpose of receiving ancillary services. A child required to attend school under this subsection may be temporarily excused upon the request of his or her parent for purposes agreed upon by the school district and parent.

(2) If a six or seven year old child is required to attend public school under subsection (1) of this section and that child has unexcused absences, the public school in which the child is enrolled shall:

(a) Inform the child's custodial parent, parents, or guardian by a notice in writing or by telephone whenever the child has failed to attend school after one unexcused absence within any month during the current school year;

(b) Request a conference or conferences with the custodial parent, parents, or guardian and child at a time reasonably convenient for all persons included for the purpose of analyzing the causes of the child's absences after three unexcused absences within any month during the current school year. If a regularly scheduled parent-teacher conference day is to take place within thirty

days of the third unexcused absence, then the school district may schedule this conference on that day; and

(c) Take steps to eliminate or reduce the child's absences. These steps shall include, where appropriate, adjusting the child's school program or school or course assignment, providing more individualized or remedial instruction, offering assistance in enrolling the child in available alternative schools or programs, or assisting the parent or child to obtain supplementary services that may help eliminate or ameliorate the cause or causes for the absence from school.

(3) If a child is required to attend public school under subsection (1) of this section (~~(has seven unexcused absences in a month or ten)~~), after the child's seventh unexcused absence within any month during the current school year and not later than the 15th unexcused absence((s-in-a)) during the current school year, the school district shall file a petition for civil action as provided in RCW 28A.225.035 against the parent of the child.

(4) This section does not require a six or seven year old child to enroll in a public or private school or to receive home-based instruction. This section only applies to six or seven year old children whose parents enroll them full time in public school and do not formally remove them from enrollment as provided in subsection (1) of this section.

Sec. 5. RCW 28A.225.030 and 2017 c 291 s 6 are each amended to read as follows:

(1) If a child under the age of seventeen is required to attend school under RCW 28A.225.010 and if the actions taken by a school district under RCW 28A.225.020 are not successful in substantially reducing an enrolled student's absences from public school, (~~(not later than the)~~) after the child's seventh unexcused absence ((by a child)) within any month during the current school year ((or)) and not later than the ((tenth)) 15th unexcused absence during the current school year the school district shall file a petition and supporting affidavit for a civil action with the juvenile court alleging a violation of RCW 28A.225.010: (a) By the parent; (b) by the child; or (c) by the parent and the child. The petition must include a list of all interventions that have been attempted as set forth in RCW 28A.225.020, include a copy of any previous truancy assessment completed by the child's current school district, the history of approved best practices intervention or research-based intervention previously provided to the child by the child's current school district, and a copy of the most recent truancy information document provided to the parent, pursuant to RCW 28A.225.005. Except as provided in this subsection, no additional documents need be filed with the petition. Nothing in this subsection requires court jurisdiction to terminate when a child turns seventeen or precludes a school district from filing a petition for a child that is seventeen years of age.

(2) The district shall not later than the (~~(fifth)) seventh~~ unexcused absence in a month:

(a) Enter into an agreement with a student and parent that establishes school attendance requirements;

(b) Refer a student to a community truancy board as defined in RCW 28A.225.025. The community truancy board shall enter into an agreement with the student and parent that establishes school attendance requirements and take other appropriate actions to reduce the child's absences; or

(c) File a petition under subsection (1) of this section.

(3) The petition may be filed by a school district employee who is not an attorney.

(4) If the school district fails to file a petition under this section, the parent of a child with (~~five~~) seven or more unexcused absences in any month during the current school year or upon the (~~tenth~~) 15th unexcused absence during the current school year may file a petition with the juvenile court alleging a violation of RCW 28A.225.010.

(5) Petitions filed under this section may be served by certified mail, return receipt requested. If such service is unsuccessful, or the return receipt is not signed by the addressee, personal service is required.

Sec. 6. RCW 28A.225.151 and 2017 c 291 s 7 are each amended to read as follows:

(1) As required under subsection (2) of this section, the office of superintendent of public instruction shall collect and school districts shall submit student-level truancy data in order to allow a better understanding of actions taken under RCW 28A.225.030. The office shall prepare an annual report to the legislature by December 15th of each year.

(2) The reports under subsection (1) of this section shall include, disaggregated by student group:

(a) The number of enrolled students and the number of unexcused absences;

(b) The number of enrolled students with (~~ten~~) 15 or more unexcused absences in a school year or (~~five~~) seven or more unexcused absences in a month during a school year;

(c) A description of any programs or schools developed to serve students who have had (~~five~~) seven or more unexcused absences in a month or (~~ten~~) 15 in a year including information about the number of students in the program or school and the number of unexcused absences of students during and after participation in the program. The school district shall also describe any placements in an approved private nonsectarian school or program or certified program under a court order under RCW 28A.225.090;

(d) The number of petitions filed by a school district with the juvenile court and, beginning in the 2018-19 school year, whether the petition results in:

(i) Referral to a community truancy board;

(ii) Other coordinated means of intervention;

(iii) A hearing in the juvenile court; or

(iv) Other less restrictive disposition (e.g., change of placement, home school, alternative learning experience, residential treatment); and

(e) Each instance of imposition of detention for failure to comply with a court order under RCW 28A.225.090, with a statement of the reasons for each instance of detention.

(3) A report required under this section shall not disclose the name or other identification of a child or parent.

(4) The K-12 data governance group shall develop the data protocols and guidance for school districts in the collection of data to provide a clearer understanding of actions taken under RCW 28A.225.030.

Sec. 7. RCW 28A.225.030 and 2017 c 291 s 6 are each amended to read as follows:

(1) If a child under the age of seventeen is required to attend school under RCW 28A.225.010 and if the actions taken by a school district under RCW 28A.225.020 are not successful in substantially reducing an enrolled student's absences from public school, ~~((not later than the seventh))~~ after the child's seventh unexcused absence ~~((by a child))~~ within any month during the current school year ~~((or))~~ and not later than the ~~((tenth))~~ 15th unexcused absence during the current school year the school district shall file a petition and supporting affidavit for a civil action with the juvenile court alleging a violation of RCW 28A.225.010: (a) By the parent; (b) by the child; or (c) by the parent and the child. The petition must include a list of all interventions that have been attempted as set forth in RCW 28A.225.020, include a copy of any previous truancy assessment completed by the child's current school district, the history of approved best practices intervention or research-based intervention previously provided to the child by the child's current school district, and a copy of the most recent truancy information document provided to the parent, pursuant to RCW 28A.225.005. Except as provided in this subsection, no additional documents need be filed with the petition. Nothing in this subsection requires court jurisdiction to terminate when a child turns seventeen or precludes a school district from filing a petition for a child that is seventeen years of age.

(2) The district shall not later than the ~~((fifth))~~ seventh unexcused absence in a month:

(a) Enter into an agreement with a student and parent that establishes school attendance requirements;

(b) Refer a student to a community ~~((truancy))~~ engagement board as defined in RCW 28A.225.025. The community ~~((truancy))~~ engagement board shall enter into an agreement with the student and parent that establishes school attendance requirements and take other appropriate actions to reduce the child's absences; or

(c) File a petition under subsection (1) of this section.

(3) The petition may be filed by a school district employee who is not an attorney.

(4) If the school district fails to file a petition under this section, the parent of a child with ~~((five))~~ seven or more unexcused absences in any month during the current school year or upon the ~~((tenth))~~ 15th unexcused absence during the current school year may file a petition with the juvenile court alleging a violation of RCW 28A.225.010.

(5) Petitions filed under this section may be served by certified mail, return receipt requested. If such service is unsuccessful, or the return receipt is not signed by the addressee, personal service is required.

Sec. 8. RCW 28A.225.151 and 2017 c 291 s 7 are each amended to read as follows:

(1) As required under subsection (2) of this section, the office of superintendent of public instruction shall collect and school districts shall submit student-level truancy data in order to allow a better understanding of actions taken under RCW 28A.225.030. The office shall prepare an annual report to the legislature by December 15th of each year.

(2) The reports under subsection (1) of this section shall include, disaggregated by student group:

(a) The number of enrolled students and the number of unexcused absences;

(b) The number of enrolled students with (~~(ten)~~) 15 or more unexcused absences in a school year or (~~(five)~~) seven or more unexcused absences in a month during a school year;

(c) A description of any programs or schools developed to serve students who have had (~~(five)~~) seven or more unexcused absences in a month or (~~(ten)~~) 15 in a year including information about the number of students in the program or school and the number of unexcused absences of students during and after participation in the program. The school district shall also describe any placements in an approved private nonsectarian school or program or certified program under a court order under RCW 28A.225.090;

(d) The number of petitions filed by a school district with the juvenile court and, beginning in the 2018-19 school year, whether the petition results in:

(i) Referral to a community (~~(truancy)~~) engagement board;

(ii) Other coordinated means of intervention;

(iii) A hearing in the juvenile court; or

(iv) Other less restrictive disposition (e.g., change of placement, home school, alternative learning experience, residential treatment); and

(e) Each instance of imposition of detention for failure to comply with a court order under RCW 28A.225.090, with a statement of the reasons for each instance of detention.

(3) A report required under this section shall not disclose the name or other identification of a child or parent.

(4) The K-12 data governance group shall develop the data protocols and guidance for school districts in the collection of data to provide a clearer understanding of actions taken under RCW 28A.225.030.

Sec. 9. RCW 28A.225.020 and 2017 c 291 s 2 are each amended to read as follows:

(1) If a child required to attend school under RCW 28A.225.010 fails to attend school without valid justification, the public school in which the child is enrolled shall:

(a) Inform the child's parent by a notice in writing or by telephone whenever the child has failed to attend school after one unexcused absence within any month during the current school year. School officials shall inform the parent of the potential consequences of additional unexcused absences. If the parent is not fluent in English, the school must make reasonable efforts to provide this information in a language in which the parent is fluent;

(b) Schedule a conference or conferences with the parent and child at a time reasonably convenient for all persons included for the purpose of analyzing the causes of the child's absences after three unexcused absences within any month during the current school year. If a regularly scheduled parent-teacher conference day is to take place within thirty days of the third unexcused absence, then the school district may schedule this conference on that day. If the child's parent does not attend the scheduled conference, the conference may be conducted with the student and school official. However the parent shall be notified of the steps to be taken to eliminate or reduce the child's absence; and

(c) At some point after the second and before the (~~(fifth)~~) seventh unexcused absence, take data-informed steps to eliminate or reduce the child's absences.

(i) In middle school and high school, these steps must include application of the Washington assessment of the risks and needs of students (WARNS) or other assessment by a school district's designee under RCW 28A.225.026.

(ii) For any child with an existing individualized education plan or 504 plan, these steps must include the convening of the child's individualized education plan or 504 plan team, including a behavior specialist or mental health specialist where appropriate, to consider the reasons for the absences. If necessary, and if consent from the parent is given, a functional behavior assessment to explore the function of the absence behavior shall be conducted and a detailed behavior plan completed. Time should be allowed for the behavior plan to be initiated and data tracked to determine progress.

(iii) With respect to any child, without an existing individualized education plan or 504 plan, reasonably believed to have a mental or physical disability or impairment, these steps must include informing the child's parent of the right to obtain an appropriate evaluation at no cost to the parent to determine whether the child has a disability or impairment and needs accommodations, related services, or special education services. This includes children with suspected emotional or behavioral disabilities as defined in WAC 392-172A-01035. If the school obtains consent to conduct an evaluation, time should be allowed for the evaluation to be completed, and if the child is found to be eligible for special education services, accommodations, or related services, a plan developed to address the child's needs.

(iv) These steps must include, where appropriate, providing an available approved best practice or research-based intervention, or both, consistent with the WARNS profile or other assessment, if an assessment was applied, adjusting the child's school program or school or course assignment, providing more individualized or remedial instruction, providing appropriate vocational courses or work experience, referring the child to a community ((truancy)) engagement board, requiring the child to attend an alternative school or program, or assisting the parent or child to obtain supplementary services that might eliminate or ameliorate the cause or causes for the absence from school.

(2) For purposes of this chapter, an "unexcused absence" means that a child:

(a)(i) Has failed to attend the majority of hours or periods in an average school day or has failed to comply with a more restrictive school district policy; and

(ii) Has failed to meet the school district's policy for excused absences; or

(b) Has failed to comply with alternative learning experience program attendance requirements as described by the superintendent of public instruction.

(3) If a child transfers from one school district to another during the school year, the receiving school or school district shall include the unexcused absences accumulated at the previous school or from the previous school district for purposes of this section, RCW 28A.225.030, and 28A.225.015. The sending school district shall provide this information to the receiving school, together with a copy of any previous assessment as required under subsection (1)(c) of this section, history of any best practices or researched-based intervention previously provided to the child by the child's sending school district, and a copy of the most recent truancy information including any online or written acknowledgment by the parent and child, as provided for in RCW 28A.225.005. All school districts must use the standard choice transfer form for releasing a

student to a nonresident school district for the purposes of accessing an alternative learning experience program.

Sec. 10. RCW 28A.225.025 and 2017 c 291 s 3 are each amended to read as follows:

(1) For purposes of this chapter, "community (~~(truancy)~~) engagement board" means a board established pursuant to a memorandum of understanding between a juvenile court and a school district and composed of members of the local community in which the child attends school. Community (~~(truancy)~~) engagement boards must include members who receive training regarding the identification of barriers to school attendance, the use of the Washington assessment of the risks and needs of students (WARNS) or other assessment tools to identify the specific needs of individual children, cultural responsive interactions, trauma-informed approaches to discipline, evidence-based treatments that have been found effective in supporting at-risk youth and their families, and the specific services and treatment available in the particular school, court, community, and elsewhere. Duties of a community (~~(truancy)~~) engagement board shall include, but not be limited to: Identifying barriers to school attendance, recommending methods for improving attendance such as connecting students and their families with community services, culturally appropriate promising practices, and evidence-based services such as functional family therapy, suggesting to the school district that the child enroll in another school, an alternative education program, an education center, a skill center, a dropout prevention program, or another public or private educational program, or recommending to the juvenile court that a juvenile be offered the opportunity for placement in a HOPE center or crisis residential center, if appropriate.

(2) The legislature finds that utilization of community (~~(truancy)~~) engagement boards is the preferred means of intervention when preliminary methods to eliminate or reduce unexcused absences as required by RCW 28A.225.020 have not been effective in securing the child's attendance at school. The legislature intends to encourage and support the development and expansion of community (~~(truancy)~~) engagement boards. Operation of a school truancy board does not excuse a district from the obligation of filing a petition within the requirements of RCW 28A.225.015(3).

Sec. 11. RCW 28A.225.026 and 2017 c 291 s 4 are each amended to read as follows:

(1) By the beginning of the 2017-18 school year, juvenile courts must establish, through a memorandum of understanding with each school district within their respective counties, a coordinated and collaborative approach to address truancy through the establishment of a community (~~(truancy)~~) engagement board or, with respect to certain small districts, through other means as provided in subsection (3) of this section.

(2) Except as provided in subsection (3) of this section, each school district must enter into a memorandum of understanding with the juvenile court in the county in which it is located with respect to the operation of a community (~~(truancy)~~) engagement board. A community (~~(truancy)~~) engagement board may be operated by a juvenile court, a school district, or a collaboration between both entities, so long as the agreement is memorialized in a memorandum of understanding. For a school district that is located in more than one county, the

memorandum of understanding shall be with the juvenile court in the county that acts as the school district's treasurer.

(3) A school district with fewer than three hundred students must enter into a memorandum of understanding with the juvenile court in the county in which it is located with respect to: (a) The operation of a community ((~~truancy~~)) engagement board; or (b) addressing truancy through other coordinated means of intervention aimed at identifying barriers to school attendance, and connecting students and their families with community services, culturally appropriate promising practices, and evidence-based services such as functional family therapy. School districts with fewer than three hundred students may work cooperatively with other school districts or the school district's educational service district to ensure access to a community ((~~truancy~~)) engagement board or to provide other coordinated means of intervention.

(4) All school districts must designate, and identify to the local juvenile court and to the office of the superintendent of public instruction, a person or persons to coordinate school district efforts to address excessive absenteeism and truancy, including tasks associated with: Outreach and conferences pursuant to RCW 28A.225.018; entering into a memorandum of understanding with the juvenile court; establishing protocols and procedures with the court; coordinating trainings; sharing evidence-based and culturally appropriate promising practices; identifying a person within every school to serve as a contact with respect to excessive absenteeism and truancy; and assisting in the recruitment of community ((~~truancy~~)) engagement board members.

(5) As has been demonstrated by school districts and county juvenile courts around the state that have worked together and led the way with community ((~~truancy~~)) engagement boards, success has resulted from involving the entire community and leveraging existing dollars from a variety of sources, including public and private, local and state, and court, school, and community. In emulating this coordinated and collaborative approach statewide pursuant to local memoranda of understanding, courts and school districts are encouraged to create strong community-wide partnerships and to leverage existing dollars and resources.

Sec. 12. RCW 28A.225.0261 and 2016 c 205 s 17 are each amended to read as follows:

(1) By requiring an initial stay of truancy petitions for diversion to community ((~~truancy~~)) engagement boards, the legislature intends to achieve the following outcomes:

(a) Increased access to community ((~~truancy~~)) engagement boards and other truancy early intervention programs for parents and children throughout the state;

(b) Increased quantity and quality of truancy intervention and prevention efforts in the community;

(c) A reduction in the number of truancy petitions that result in further proceedings by juvenile courts, other than dismissal of the petition, after the initial stay and diversion to a community ((~~truancy~~)) engagement board;

(d) A reduction in the number of truancy petitions that result in a civil contempt proceeding or detention order; and

(e) Increased school attendance.

(2) No later than January 1, 2021, the Washington state institute for public policy is directed to evaluate the effectiveness of chapter 205, Laws of 2016. An initial report scoping of the methodology to be used to review chapter 205, Laws of 2016 shall be submitted to the fiscal committees of the legislature by January 1, 2018. The initial report must identify any data gaps that could hinder the ability of the institute to conduct its review.

Sec. 13. RCW 28A.225.027 and 2016 c 205 s 20 are each amended to read as follows:

(1) Subject to funds appropriated for this purpose, the office of the superintendent of public instruction shall allocate to community (~~(truancy))~~ engagement boards grant funds that may be used to supplement existing funds in order to pay for training for board members or the provision of services and treatment to children and their families.

(2) The superintendent of public instruction must select grant recipients based on the criteria in this section. This is a competitive grant process. A prerequisite to applying for either or both grants is a memoranda of understanding, between a school district and a court, to institute a new or maintain an existing community (~~(truancy))~~ engagement board that meets the requirements of RCW 28A.225.025.

(3) Successful applicants for an award of grant funds to supplement existing funds to pay for the training of community (~~(truancy))~~ engagement board members must commit to the provision of training to board members regarding the identification of barriers to school attendance, the use of the Washington assessment of the risks and needs of students (WARNS) or other assessment tools to identify the specific needs of individual children, trauma-informed approaches to discipline, research about adverse childhood experiences, evidence-based treatments and culturally appropriate promising practices, as well as the specific academic and community services and treatments available in the school, court, community, and elsewhere. This training may be provided by educational service districts.

(4) Successful applicants for an award of grant funds to supplement existing funds to pay for services and treatments provided to children and their families must commit to the provision of academic services such as tutoring, credit retrieval and school reengagement supports, community services, and evidence-based treatments that have been found to be effective in supporting at-risk youth and their families, such as functional family therapy, or those that have been shown to be culturally appropriate promising practices.

Sec. 14. RCW 28A.225.035 and 2016 c 205 s 8 are each amended to read as follows:

(1) A petition for a civil action under RCW 28A.225.030 or 28A.225.015 shall consist of a written notification to the court alleging that:

(a) The child has unexcused absences as described in RCW 28A.225.030(1) during the current school year;

(b) Actions taken by the school district have not been successful in substantially reducing the child's absences from school; and

(c) Court intervention and supervision are necessary to assist the school district or parent to reduce the child's absences from school.

(2) The petition shall set forth the name, date of birth, school, address, gender, race, and ethnicity of the child and the names and addresses of the child's parents, and shall set forth the languages in which the child and parent are fluent, whether there is an existing individualized education program, and the child's current academic status in school.

(3) The petition shall set forth facts that support the allegations in this section and shall generally request relief available under this chapter and provide information about what the court might order under RCW 28A.225.090.

(4)(a) When a petition is filed under RCW 28A.225.030 or 28A.225.015, it shall initially be stayed by the juvenile court, and the child and the child's parent must be referred to a community ((truaney)) engagement board or other coordinated means of intervention as set forth in the memorandum of understanding under RCW 28A.225.026. The community ((truaney)) engagement board must provide to the court a description of the intervention and prevention efforts to be employed to substantially reduce the child's unexcused absences, along with a timeline for completion.

(b) If a community ((truaney)) engagement board or other coordinated means of intervention is not in place as required by RCW 28A.225.026, the juvenile court shall schedule a hearing at which the court shall consider the petition.

(5) When a referral is made to a community ((truaney)) engagement board, the ((truaney)) community engagement board must meet with the child, a parent, and the school district representative and enter into an agreement with the petitioner and respondent regarding expectations and any actions necessary to address the child's truancy within twenty days of the referral. If the petition is based on RCW 28A.225.015, the child shall not be required to attend and the agreement under this subsection shall be between the ((truaney)) community engagement board, the school district, and the child's parent. The court may permit the ((truaney)) community engagement board or truancy prevention counselor to provide continued supervision over the student, or parent if the petition is based on RCW 28A.225.015.

(6) If the community ((truaney)) engagement board fails to reach an agreement, or the parent or student does not comply with the agreement within the timeline for completion set by the community ((truaney)) engagement board, the community ((truaney)) engagement board shall return the case to the juvenile court. The stay of the petition shall be lifted, and the juvenile court shall schedule a hearing at which the court shall consider the petition.

(7)(a) Notwithstanding the provisions in subsection (4)(a) of this section, a hearing shall not be required if other actions by the court would substantially reduce the child's unexcused absences. Such actions may include referral to an existing community ((truaney)) engagement board, use of the Washington assessment of risks and needs of students (WARNS) or other assessment tools to identify the specific needs of individual children, the provision of community-based services, and the provision of evidence-based treatments that have been found to be effective in supporting at-risk youth and their families. When a juvenile court hearing is held, the court shall:

(i) Separately notify the child, the parent of the child, and the school district of the hearing. If the parent is not fluent in English, notice should be provided in

a language in which the parent is fluent as indicated on the petition pursuant to RCW 28A.225.030(1);

(ii) Notify the parent and the child of their rights to present evidence at the hearing; and

(iii) Notify the parent and the child of the options and rights available under chapter 13.32A RCW.

(b) If the child is not provided with counsel, the advisement of rights must take place in court by means of a colloquy between the court, the child if eight years old or older, and the parent.

(8)(a) The court may require the attendance of the child if eight years old or older, the parents, and the school district at any hearing on a petition filed under RCW 28A.225.030.

(b) The court may not issue a bench warrant for a child for failure to appear at a hearing on an initial truancy petition filed under RCW 28A.225.030. If there has been proper service, the court may instead enter a default order assuming jurisdiction under the terms specified in subsection (12) of this section.

(9) A school district is responsible for determining who shall represent the school district at hearings on a petition filed under RCW 28A.225.030 or 28A.225.015.

(10) The court may permit the first hearing to be held without requiring that either party be represented by legal counsel, and to be held without a guardian ad litem for the child under RCW 4.08.050. At the request of the school district, the court shall permit a school district representative who is not an attorney to represent the school district at any future hearings.

(11) If the child is in a special education program or has a diagnosed mental or emotional disorder, the court shall inquire as to what efforts the school district has made to assist the child in attending school.

(12) If the allegations in the petition are established by a preponderance of the evidence, the court shall grant the petition and enter an order assuming jurisdiction to intervene for the period of time determined by the court, after considering the facts alleged in the petition and the circumstances of the juvenile, to most likely cause the juvenile to return to and remain in school while the juvenile is subject to this chapter. In no case may the order expire before the end of the school year in which it is entered.

(13)(a) If the court assumes jurisdiction, the school district shall periodically report to the court any additional unexcused absences by the child, actions taken by the school district, and an update on the child's academic status in school at a schedule specified by the court.

(b) The first report under this subsection (13) must be received no later than three months from the date that the court assumes jurisdiction.

(14) Community (~~truancy~~) engagement boards and the courts shall coordinate, to the extent possible, proceedings and actions pertaining to children who are subject to truancy petitions and at-risk youth petitions in RCW 13.32A.191 or child in need of services petitions in RCW 13.32A.140.

(15) If after a juvenile court assumes jurisdiction in one county the child relocates to another county, the juvenile court in the receiving county shall, upon the request of a school district or parent, assume jurisdiction of the petition filed in the previous county.

Sec. 15. RCW 28A.225.090 and 2019 c 312 s 14 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.

(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 ~~((truant))~~ community engagement board under RCW 28A.225.035, the juvenile court shall find the child in contempt, and the court may impose alternatives to detention 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.

NEW SECTION. Sec. 16. Sections 1 through 6 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. Sec. 17. Sections 5 and 6 of this act expire August 1, 2021.

NEW SECTION. Sec. 18. Sections 7 through 15 of this act take effect August 1, 2021.

Passed by the House March 3, 2021.

Passed by the Senate April 9, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 120

[Engrossed Substitute House Bill 1176]

SCHOOLS—WITHHOLDING OF TRANSCRIPTS AND DIPLOMAS—LIMITATION

AN ACT Relating to access to higher education; and amending RCW 28A.635.060 and 28A.225.330.

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

Sec. 1. RCW 28A.635.060 and 1997 c 266 s 13 are each amended to read as follows:

(1) Any pupil who defaces or otherwise injures any school property, or property belonging to a school contractor, employee, or another student, ~~((is))~~ may be subject to suspension and punishment. If any property of the school district, a contractor of the district, an employee, or another student has been lost or willfully cut, defaced, or injured, the school district may withhold the ~~((grades;))~~ diploma, ~~((and))~~ but not the grades or transcripts, of the ~~((pupil))~~

student responsible for the damage or loss until the ~~((pupil))~~ student or the ~~((pupils))~~ student's parent or guardian has paid for the damages. ~~((If the student is suspended, the student may not be readmitted until the student or parents or legal guardian has made payment in full or until directed by the superintendent of schools. If the property damaged is a school bus owned and operated by or contracted to any school district, a student suspended for the damage may not be permitted to enter or ride any school bus until the student or parent or legal guardian has made payment in full or until directed by the superintendent.))~~ When the ~~((pupil))~~ student and parent or guardian are unable to pay for the damages, the school district shall provide a program of ~~((voluntary work))~~ community service for the ~~((pupil))~~ student in lieu of the payment of monetary damages. Upon completion of ~~((voluntary work))~~ community service the ~~((grades,))~~ diploma~~(, and transcripts)~~ of the ~~((pupil shall))~~ student must be released. The parent or guardian of ~~((such pupil))~~ the student shall be liable for damages as otherwise provided by law.

(2) Before ~~((any penalties are assessed))~~ the diploma is withheld under this section, a school district board of directors shall adopt procedures which insure that ~~((pupils'))~~ students' rights to due process are protected.

(3) If the department of social and health services or a child-placing agency licensed by the department has been granted custody of a child, that child's records, if requested by the department or agency, are not to be withheld for nonpayment of school fees or any other reason.

(4)(a) Each school district that withholds a diploma under this section shall publish and maintain the following information on its website:

(i) The number of diplomas withheld under this section, by graduating class, during the previous three school years; and

(ii) The number of students with withheld diplomas who were eligible for free or reduced-price meals during their last two years of enrollment in the school district.

(b) To the extent practicable, school districts must publish the information required by this subsection (4) with the information published under RCW 28A.325.050.

Sec. 2. RCW 28A.225.330 and 2020 c 167 s 8 are each amended to read as follows:

(1) When enrolling a student who has attended school in another school district, the school enrolling the student may request the parent and the student to briefly indicate in writing whether or not the student has:

- (a) Any history of placement in special educational programs;
- (b) Any past, current, or pending disciplinary action;
- (c) Any history of violent behavior, or behavior listed in RCW 13.04.155;
- (d) Any unpaid fines or fees imposed by other schools; and
- (e) Any health conditions affecting the student's educational needs.

(2) The school enrolling the student shall request the student's permanent record including records of disciplinary action, history of violent behavior or behavior listed in RCW 13.04.155, attendance, immunization records, and academic performance from the school the student previously attended. ~~((If the student has not paid a fine or fee under RCW 28A.635.060, or tuition, fees, or fines at approved private schools the school may withhold the student's official transcript, but shall transmit information about the student's academic~~

~~performance, special placement, immunization records, records of disciplinary action, and history of violent behavior or behavior listed in RCW 13.04.155. If the official transcript is not sent due to unpaid tuition, fees, or fines, the enrolling school shall notify both the student and parent or guardian that the official transcript will not be sent until the obligation is met, and failure to have an official transcript may result in exclusion from extracurricular activities or failure to graduate-))~~

(3) Upon request, school districts shall furnish a set of unofficial educational records to a parent or guardian of a student who is transferring out of state and who meets the definition of a child of a military family in transition under Article II of RCW 28A.705.010. School districts may charge the parent or guardian the actual cost of providing the copies of the records.

(4) If information is requested under subsection (2) of this section, the information shall be transmitted within two school days after receiving the request and the records shall be sent as soon as possible. The records of a student who meets the definition of a child of a military family in transition under Article II of RCW 28A.705.010 shall be sent within ten days after receiving the request. Any school district or district employee who releases the information in compliance with this section is immune from civil liability for damages unless it is shown that the school district employee acted with gross negligence or in bad faith. The professional educator standards board shall provide by rule for the discipline under chapter 28A.410 RCW of a school principal or other chief administrator of a public school building who fails to make a good faith effort to assure compliance with this subsection.

(5) Any school district or district employee who releases the information in compliance with federal and state law is immune from civil liability for damages unless it is shown that the school district or district employee acted with gross negligence or in bad faith.

(6) A school may not prevent a student who is dependent pursuant to chapter 13.34 RCW from enrolling if there is incomplete information as enumerated in subsection (1) of this section during the ten business days that the department of social and health services has to obtain that information under RCW 74.13.631. In addition, upon enrollment of a student who is dependent pursuant to chapter 13.34 RCW, the school district must make reasonable efforts to obtain and assess that child's educational history in order to meet the child's unique needs within two business days.

Passed by the House April 15, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 121

[Engrossed House Bill 1251]

WHEELED ALL-TERRAIN VEHICLES—USE ON CERTAIN STATE HIGHWAYS

AN ACT Relating to the authorization of wheeled all-terrain vehicles on state highways; and amending RCW 46.09.455.

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

Sec. 1. RCW 46.09.455 and 2017 c 26 s 1 are each amended to read as follows:

(1) A person may operate a wheeled all-terrain vehicle upon any public roadway of this state, not including nonhighway roads and trails, having a speed limit of thirty-five miles per hour or less subject to the following restrictions and requirements:

(a) A person may not operate a wheeled all-terrain vehicle upon state highways that are listed in chapter 47.17 RCW; however, a person may operate a wheeled all-terrain vehicle upon a segment of a state highway listed in chapter 47.17 RCW if the segment is within the limits of a city or town, or if the county in which the segment is located has first consulted with the department of transportation, and then adopted an ordinance approving the operation of wheeled all-terrain vehicles on that segment, and the speed limit on the segment is thirty-five miles per hour or less;

(b)(i) A person operating a wheeled all-terrain vehicle may not cross a public roadway, not including nonhighway roads and trails, with a speed limit in excess of thirty-five miles per hour, except as follows: A person operating a wheeled all-terrain vehicle may cross a public roadway with a speed limit of sixty miles per hour or less, but more than thirty-five miles per hour, at an intersection of approximately ninety degrees if the roadway that intersects the public roadway with a speed limit of sixty miles per hour or less, but more than thirty-five miles per hour, is a roadway upon which the operation of wheeled all-terrain vehicles has been approved or is otherwise allowed under this section.

(ii) A county, city, or town may by ordinance prohibit a person operating a wheeled all-terrain vehicle from crossing a public roadway with a speed limit of sixty miles per hour or less, but more than thirty-five miles per hour, at specific intersections or along the entirety of the route within the jurisdiction.

(iii) The operator of a wheeled all-terrain vehicle may not cross at an uncontrolled intersection of a public highway listed under chapter 47.17 RCW;

(c)(i) A person may not operate a wheeled all-terrain vehicle on a public roadway within the boundaries of a county, not including nonhighway roads and trails, with a population of fifteen thousand or more unless the county by ordinance has approved the operation of wheeled all-terrain vehicles on county roadways, not including nonhighway roads and trails.

(ii) ~~((The))~~ Except as otherwise provided in (a) of this subsection, the legislative body of a county with a population of fewer than fifteen thousand may, by ordinance, designate roadways or highways within its boundaries to be unsuitable for use by wheeled all-terrain vehicles.

(iii) Any public roadways, not including nonhighway roads and trails, authorized by a legislative body of a county under (c)(i) of this subsection or designated as unsuitable under (c)(ii) of this subsection must be listed publicly and made accessible from the main page of the county web site.

(iv) This subsection (1)(c) does not affect any roadway that was designated as open or closed as of January 1, 2013;

(d)(i) A person may not operate a wheeled all-terrain vehicle on a public roadway within the boundaries of a city or town, not including nonhighway roads and trails, unless the city or town by ordinance has approved the operation of wheeled all-terrain vehicles on city or town roadways, not including nonhighway roads and trails.

(ii) Any public roadways, not including nonhighway roads and trails, authorized by a legislative body of a city or town under (d)(i) of this subsection must be listed publicly and made accessible from the main page of the city or town web site.

(iii) This subsection (1)(d) does not affect any roadway that was designated as open or closed as of January 1, 2013;

(e) Any person who violates this subsection commits a traffic infraction.

(2) Local authorities may not establish requirements for the registration of wheeled all-terrain vehicles.

(3) A person may operate a wheeled all-terrain vehicle upon any public roadway, trail, nonhighway road, or highway within the state while being used under the authority or direction of an appropriate agency that engages in emergency management, as defined in RCW 46.09.310, or search and rescue, as defined in RCW 38.52.010, or a law enforcement agency, as defined in RCW 16.52.011, within the scope of the agency's official duties.

(4) A wheeled all-terrain vehicle is an off-road vehicle for the purposes of chapter 4.24 RCW.

Passed by the House February 23, 2021.

Passed by the Senate April 9, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 122

[Engrossed House Bill 1271]

COUNTY ELECTED OFFICIALS—VARIOUS PROVISIONS

AN ACT Relating to ensuring continuity of operations in the offices of county elected officials during the current COVID-19 pandemic and future public health crises; amending RCW 2.32.050, 84.41.041, 38.52.040, 70.54.430, 43.09.230, 65.04.140, 46.20.118, 6.21.030, 6.21.040, 6.21.050, 6.21.090, 6.21.100, and 84.56.020; reenacting and amending RCW 6.01.060; creating a new section; and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature finds that the ability of county elected officials to fulfill their statutory responsibilities through continued conduct of essential functions and services during the current COVID-19 pandemic and potential future public health crises requires updating, and at times temporary waiver, of these requirements in statute. The legislature intends to update the manner in which services may be provided; maintaining access and opportunity. In addition, the legislature intends to clarify the conditions under which waiver or suspension of specific statutes may be assumed by county elected officials in order to eliminate temporary barriers to continuity of operations.

Sec. 2. RCW 2.32.050 and 2017 c 183 s 1 are each amended to read as follows:

The clerk of the supreme court, each clerk of the court of appeals, and each clerk of a superior court, has power to take and certify the proof and acknowledgment of a conveyance of real property, or any other written instrument authorized or required to be proved or acknowledged, and to

administer oaths in every case when authorized by law; and it is the duty of the clerk of the supreme court, each clerk of the court of appeals, and of each county clerk for each of the courts for which he or she is clerk:

- (1) To keep the seal of the court and affix it in all cases where he or she is required by law;
- (2) To record the proceedings of the court;
- (3) To keep the records, files, and other books and papers appertaining to the court;
- (4) To file all papers delivered to him or her for that purpose in any action or proceeding in the court as directed by court rule or statute;
- (5) To attend, either in person or electronically if the proceeding is virtual, the court of which he or she is clerk, to administer oaths, and receive the verdict of a jury in any action or proceeding therein, in the presence and under the direction of the court;
- (6) To keep the minutes of the proceedings of the court, and, under the direction of the court, to enter its orders, judgments, and decrees;
- (7) To authenticate by certificate or transcript, as may be required, the records, files, or proceedings of the court, or any other paper appertaining thereto and filed with him or her;
- (8) To exercise the powers and perform the duties conferred and imposed upon him or her elsewhere by statute;
- (9) In the performance of his or her duties to conform to the direction of the court;
- (10) To publish notice of the procedures for inspection of the public records of the court.

Sec. 3. RCW 84.41.041 and 2017 c 323 s 507 are each amended to read as follows:

(1) Each county assessor must cause taxable real property (~~(to be physically inspected)~~) characteristics to be reviewed in accordance with international association of assessing officers standards for physical inspection and valued at least once every six years in accordance with RCW 84.41.030, and in accordance with a plan filed with and approved by the department of revenue. Such revaluation plan must provide that all taxable real property within a county must be revalued and these newly determined values placed on the assessment rolls each year. Property must be valued at one hundred percent of its true and fair value and assessed on the same basis, in accordance with RCW 84.40.030, unless specifically provided otherwise by law. During the intervals between each physical inspection of real property, the valuation of such property must be adjusted to its current true and fair value, such adjustments to be made once each year and to be based upon appropriate statistical data.

(2) The assessor may require property owners to submit pertinent data respecting taxable property in their control including data respecting any sale or purchase of said property within the past five years, the cost and characteristics of any improvement on the property and other facts necessary for appraisal of the property.

Sec. 4. RCW 38.52.040 and 2019 c 333 s 9 are each amended to read as follows:

(1) There is hereby created the emergency management council (hereinafter called the council), to consist of not more than (~~eighteen~~) 21 members who shall be appointed by the adjutant general. The membership of the council shall include, but not be limited to, representatives of city and county governments, sheriffs and police chiefs, county coroners and medical examiners, the Washington state patrol, the military department, the department of ecology, state and local fire chiefs, seismic safety experts, state and local emergency management directors, search and rescue volunteers, medical professions who have expertise in emergency medical care, building officials, private industry, and the office of the superintendent of public instruction. The representatives of private industry shall include persons knowledgeable in emergency and hazardous materials management. The councilmembers shall elect a chair from within the council membership. The members of the council shall serve without compensation, but may be reimbursed for their travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) The emergency management council shall advise the governor and the director on all matters pertaining to state and local emergency management. The council may appoint such ad hoc committees, subcommittees, and working groups as are required to develop specific recommendations for the improvement of emergency management practices, standards, policies, or procedures. The council shall ensure that the governor receives an annual assessment of statewide emergency preparedness including, but not limited to, specific progress on hazard mitigation and reduction efforts, implementation of seismic safety improvements, reduction of flood hazards, and coordination of hazardous materials planning and response activities. The council shall review administrative rules governing state and local emergency management practices and recommend necessary revisions to the director.

(3) The council or a council subcommittee shall serve and periodically convene in special session as the state emergency response commission required by the emergency planning and community right-to-know act (42 U.S.C. Sec. 11001 et seq.). The state emergency response commission shall conduct those activities specified in federal statutes and regulations and state administrative rules governing the coordination of hazardous materials policy including, but not limited to, review of local emergency planning committee emergency response plans for compliance with the planning requirements in the emergency planning and community right-to-know act (42 U.S.C. Sec. 11001 et seq.). Committees shall annually review their plans to address changed conditions, and submit their plans to the state emergency response commission for review when updated, but not less than at least once every five years. The department may employ staff to assist local emergency planning committees in the development and annual review of these emergency response plans, with an initial focus on the highest risk communities through which trains that transport oil in bulk travel. By March 1, 2018, the department shall report to the governor and legislature on progress towards compliance with planning requirements. The report must also provide budget and policy recommendations for continued support of local emergency planning.

(4)(a) The intrastate mutual aid committee is created and is a subcommittee of the emergency management council. The intrastate mutual aid committee

consists of not more than five members who must be appointed by the council chair from council membership. The chair of the intrastate mutual aid committee is the military department representative appointed as a member of the council. Meetings of the intrastate mutual aid committee must be held at least annually.

(b) In support of the intrastate mutual aid system established in chapter 38.56 RCW, the intrastate mutual aid committee shall develop and update guidelines and procedures to facilitate implementation of the intrastate mutual aid system by member jurisdictions, including but not limited to the following: Projected or anticipated costs; checklists and forms for requesting and providing assistance; recordkeeping; reimbursement procedures; and other implementation issues. These guidelines and procedures are not subject to the rule-making requirements of chapter 34.05 RCW.

(5) On emergency management issues that involve early learning, kindergarten through twelfth grade, or higher education, the emergency management council must consult with representatives from the following organizations: The department of children, youth, and families; the office of the superintendent of public instruction; the state board for community and technical colleges; and an association of public baccalaureate degree-granting institutions.

Sec. 5. RCW 70.54.430 and 2015 c 30 s 1 are each amended to read as follows:

(1) When requested by first responders during an emergency, employees of companies providing personal emergency response services must provide to first responders the name, address, and any other information necessary for first responders to contact subscribers within the jurisdiction of the emergency.

(2) Companies providing personal emergency response services may adopt policies to respond to requests from first responders to release subscriber contact information during an emergency. Policies may include procedures to:

- (a) Verify that the requester is a first responder;
- (b) Verify that the request is made pursuant to an emergency;
- (c) Fulfill the request by providing the subscriber contact information; and
- (d) Deny the request if no emergency exists or if the requester is not a first responder.

(3) Information received by a first responder under subsection (1) of this section is confidential and exempt from disclosure under chapter 42.56 RCW, and may be used only in responding to the emergency that prompted the request for information. Any first responder receiving the information must destroy it at the end of the emergency.

(4) It is not a violation of this section if a personal emergency response services company or an employee makes a good faith effort to comply with this section. In addition, the company or employee is immune from civil liability for a good faith effort to comply with this section. Should a company or employee prevail upon the defense provided in this section, the company or employee is entitled to recover expenses and reasonable attorneys' fees incurred in establishing the defense.

(5) First responders and their employing jurisdictions are not liable for failing to request the information in subsection (1) of this section. In addition, chapter 30, Laws of 2015 does not create a private right of action nor does it create any civil liability on the part of the state or any of its subdivisions, including first responders.

(6) For the purposes of this section:

(a) "Emergency" means an occurrence that renders the personal emergency response services system inoperable for a period of twenty-four or more continuous hours, and that requires the attention of first responders acting within the scope of their official duties.

(b) "First responder" means firefighters, law enforcement officers, coroners and medical examiners, and emergency medical personnel, as licensed or certificated by this state.

(c) "Personal emergency response services" means a service provided for profit that allows persons in need of emergency assistance to contact a call center by activating a wearable device, such as a pendant or bracelet.

(7) This section does not require a personal emergency response services company to:

(a) Provide first responders with subscriber contact information in nonemergency situations; or

(b) Provide subscriber contact information to entities other than first responders.

Sec. 6. RCW 43.09.230 and 2020 c 179 s 1 are each amended to read as follows:

(1) As used in this section:

(a) "Special purpose district" means every municipal and quasi-municipal corporation other than counties, cities, and towns. Such special purpose districts include, but are not limited to, water-sewer districts, fire protection districts, port districts, public utility districts, special districts as defined in RCW 85.38.010, lake and beach management districts, conservation districts, and irrigation districts.

(b) "Unauditable" means a special purpose district that the state auditor has determined to be incapable of being audited because the special purpose district has improperly maintained, failed to maintain, or failed to submit adequate accounts, records, files, or reports for an audit to be completed.

(2) The state auditor shall require from every local government financial reports covering the full period of each fiscal year, in accordance with the forms and methods prescribed by the state auditor, which shall be uniform for all accounts of the same class.

Such reports shall be prepared, certified, and filed with the state auditor within one hundred fifty days after the close of each fiscal year. The state auditor may allow local governments a thirty-day extension for filing annual fiscal reports if the governor has declared an emergency pursuant to RCW 43.06.210.

The reports shall contain accurate statements, in summarized form, of all collections made, or receipts received, by the officers from all sources; all accounts due the public treasury, but not collected; and all expenditures for every purpose, and by what authority authorized; and also: (a) A statement of all costs of ownership and operation, and of all income, of each and every public service industry owned and operated by a local government; (b) a statement of the entire public debt of every local government, to which power has been delegated by the state to create a public debt, showing the purpose for which each item of the debt was created, and the provisions made for the payment thereof; (c) a classified statement of all receipts and expenditures by any public institution; and (d) a statement of all expenditures for labor relations consultants, with the

identification of each consultant, compensation, and the terms and conditions of each agreement or arrangement; together with such other information as may be required by the state auditor.

The reports shall be certified as to their correctness by the state auditor, the state auditor's deputies, or other person legally authorized to make such certification.

Their substance shall be published in an annual volume of comparative statistics at the expense of the state as a public document.

(3)(a)(i) On or before December 31, 2020, and on or before December 31st of each year thereafter, the state auditor must search available records and notify the legislative authority of a county if any special purpose districts, located wholly or partially within the county, have been determined to be unauditible. If the boundaries of the special purpose district are located within more than one county, the state auditor must notify all legislative authorities of the counties within which the boundaries of the special purpose district lie.

(ii) If a county has been notified as provided in (a)(i) of this subsection (3), the special purpose district and the county auditor, acting on behalf of the special purpose district, are prohibited from issuing any warrants against the funds of the special purpose district until the district has had its report certified by the state auditor.

(iii) Notwithstanding (a)(ii) of this subsection (3), a county may authorize the special purpose district and the county auditor to issue warrants against the funds of the special purpose district:

(A) In order to prevent the discontinuation or interruption of any district services;

(B) For emergency or public health purposes; or

(C) To allow the district to carry out any district duties or responsibilities.

(b)(i) On or before December 31, 2020, and on or before December 31st of each year thereafter, the state auditor must search available records and notify the state treasurer if any special purpose districts have been determined to be unauditible.

(ii) If the state treasurer has been notified as provided in (b)(i) of this subsection (3), the state treasurer may not distribute any local sales and use taxes imposed by a special purpose district to the district until the district has had its report certified by the state auditor.

Sec. 7. RCW 65.04.140 and 2012 c 117 s 207 are each amended to read as follows:

The county auditor in his or her capacity of recorder of deeds is sole custodian of all books in which are recorded deeds, mortgages, judgments, liens, incumbrances, and other instruments of writing, indexes thereto, maps, charts, town plats, survey and other books and papers constituting the records and files in said office of recorder of deeds, and all such records and files are, and shall be, matters of public information, free of charge to any and all persons demanding to inspect or to examine the same, or to search the same for titles of property. It is said recorder's duty to arrange in suitable places the indexes of said books of record, and when practicable, the record books themselves, to the end that the same may be accessible to the public and convenient for said public inspection, examination, and search, and not interfere with the said auditor's personal control and responsibility for the same, or prevent him or her from

promptly furnishing the said records and files of his or her said office to persons demanding any information from the same. The said auditor or recorder must and shall, upon demand, and without charge, freely permit any and all persons, during reasonable office hours, to inspect, examine, and search any or all of the records and files of his or her said office, and to gather any information therefrom, and to make any desired notes or memoranda about or concerning the same, and to prepare an abstract or abstracts of title to any and all property therein contained. The county auditor has fulfilled this obligation regarding those records that can be accessed by the public on the county auditor's website.

Sec. 8. RCW 46.20.118 and 2009 c 366 s 1 are each amended to read as follows:

(1) The department shall maintain a negative file. It shall contain negatives of all pictures taken by the department of licensing as authorized by this chapter. Negatives in the file shall not be available for public inspection and copying under chapter 42.56 RCW.

(2) The department may make the file available to official governmental enforcement agencies to assist in the investigation by the agencies of suspected criminal activity or for the purposes of verifying identity when a law enforcement officer is authorized by law to request identification from an individual.

(3) The department shall make the file available to the office of the secretary of state, at the expense of the secretary of state, to assist in maintenance of the statewide voter registration database.

(4) The department may also provide a print to the driver's next of kin in the event the driver is deceased.

(5) The department shall make the file available to the county coroner or medical examiner for the purpose of identifying a deceased person.

Sec. 9. RCW 6.01.060 and 2019 c 371 s 2 and 2019 c 227 s 1 are each reenacted and 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) "Consumer debt" means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes. Consumer debt includes medical debt.

(3) "Medical debt" has the same meaning as provided in RCW 19.16.100.

(4) "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.

(5) "Public auction sale by electronic media" has the same meaning as provided in RCW 36.16.145.

Sec. 10. RCW 6.21.030 and 1987 c 442 s 603 are each amended to read as follows:

Before the sale of real property under execution, order of sale, or decree, notice of the sale shall be given as follows:

(1) The judgment creditor shall:

(a) Not less than thirty days prior to the date of sale, cause a copy of the notice in the form provided in RCW 6.21.040 to be (i) served on the judgment debtor or debtors and each of them in the same manner as a summons in a civil action, or (ii) transmitted both by regular mail and by certified mail, return receipt requested, to the judgment debtor or debtors, and to each of them separately if there is more than one judgment debtor, at each judgment debtor's last known address; and

(b) Not less than thirty days prior to the date of sale, mail a copy of the notice of sale to the attorney of record for the judgment debtor, if any; and

(c) File an affidavit with the court that the judgment creditor has complied with the notice requirements of this section.

(2) The sheriff shall:

(a) For a period of not less than four weeks prior to the date of sale, post a notice in the form provided in RCW 6.21.040, particularly describing the property, in two public places in the county in which the property is located, one of which shall be at the courthouse door, (~~where the property is to be sold,~~) and in case of improved real estate, one of which shall be at the front door of the principal building constituting such improvement; and

(b) Publish a notice of the sale once a week, consecutively, for the same period, in any daily or weekly legal newspaper of general circulation published in the county in which the real property to be sold is situated, but if there is more than one legal newspaper published in the county, then the plaintiff or moving party in the action, suit, or proceeding has the exclusive right to designate in which of the qualified newspapers the notice shall be published, and if there is no qualified legal newspaper published in the county, then the notice shall be published in a qualified legal newspaper published in a contiguous county, as designated by the plaintiff or moving party. The published notice shall be in substantially the following form:

IN THE SUPERIOR COURT OF THE STATE OF
WASHINGTON FOR COUNTY

Plaintiff,	}	CAUSE NO.
vs.		SHERIFF'S PUBLIC
Defendant.		NOTICE OF SALE OF REAL PROPERTY

TO: [Judgment Debtor]

The Superior Court of County has directed the undersigned Sheriff of County to sell the property described below to satisfy a judgment in the above-entitled action. If developed, the property address is:

The sale of the above-described property is to take place:

Time:

Date:

Place:

The judgment debtor can avoid the sale by paying the judgment amount of \$, together with interest, costs, and fees, before the sale date. For the exact amount, contact the sheriff at the address stated below:

. SHERIFF-DIRECTOR, COUNTY, WASHINGTON.

By, Deputy

Address

City

Washington 9

Phone (. . .)

(c) If the sale is to take place via electronic media, notice of the public sale shall also be posted on the website hosting the auction sale for a period not less than four weeks prior to the date of sale.

Sec. 11. RCW 6.21.040 and 2016 c 202 s 1 are each amended to read as follows:

The notice of sale shall be printed or typed and shall be in substantially the following form, except that if the sale is not pursuant to a judgment of foreclosure of a mortgage or a statutory lien, the notice shall also contain a statement that the sheriff has been informed that there is not sufficient personal property to satisfy the judgment and that if the judgment debtor or debtors do have sufficient personal property to satisfy the judgment, the judgment debtor or debtors should contact the sheriff's office immediately:

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR COUNTY

Plaintiff,
vs.
Defendant.

} CAUSE NO.
SHERIFF'S NOTICE TO
JUDGMENT DEBTOR OF
SALE OF REAL PROPERTY

TO: [Judgment Debtor]

The Superior Court of County has directed the undersigned Sheriff of County to sell the property described below to satisfy a judgment in the above-entitled action. The property to be sold is described on the reverse side of this notice. If developed, the property address is:

The sale of the above-described property is to take place:

Time:

Date:

Place:

if the sale is to be conducted by electronic media, include the web address of the sale website.

The judgment debtor can avoid the sale by paying the judgment amount of \$, together with interest, costs, and fees, before the sale date. For the exact amount, contact the sheriff at the address stated below:

This property is subject to: (check one)

- 1. No redemption rights after sale.
- 2. A redemption period of eight months which will expire at 4:30 p.m. on the day of, (year)
- 3. A redemption period of one year which will expire at 4:30 p.m. on the day of, (year)

The judgment debtor or debtors or any of them may redeem the above described property at any time up to the end of the redemption period by paying the amount bid at the sheriff's sale plus additional costs, taxes, assessments, certain other amounts, fees, and interest. If you are interested in redeeming the property contact the undersigned sheriff at the address stated below to determine the exact amount necessary to redeem.

IMPORTANT NOTICE: IF THE JUDGMENT DEBTOR OR DEBTORS DO NOT REDEEM THE PROPERTY BY 4:30 p.m. ON THE DAY OF, (year) , THE END OF THE REDEMPTION PERIOD, THE PURCHASER AT THE SHERIFF'S SALE WILL BECOME THE OWNER AND MAY EVICT THE OCCUPANT FROM THE PROPERTY UNLESS THE OCCUPANT IS A TENANT HOLDING UNDER AN UNEXPIRED LEASE. IF THE PROPERTY TO BE SOLD

IS OCCUPIED AS A PRINCIPAL RESIDENCE BY THE JUDGMENT DEBTOR OR DEBTORS AT THE TIME OF SALE, HE, SHE, THEY, OR ANY OF THEM MAY HAVE THE RIGHT TO RETAIN POSSESSION DURING THE REDEMPTION PERIOD, IF ANY, WITHOUT PAYMENT OF ANY RENT OR OCCUPANCY FEE. THE JUDGMENT DEBTOR MAY ALSO HAVE A RIGHT TO RETAIN POSSESSION DURING ANY REDEMPTION PERIOD IF THE PROPERTY IS USED FOR FARMING OR IF THE PROPERTY IS BEING SOLD UNDER A MORTGAGE THAT SO PROVIDES.

..... SHERIFF-DIRECTOR, COUNTY, WASHINGTON.

By, Deputy
Address
City
Washington 9
Phone (...).....

Sec. 12. RCW 6.21.050 and 1987 c 442 s 605 are each amended to read as follows:

(1) All sales of property under execution, order of sale, or decree, shall be made by auction between nine o'clock in the morning and four o'clock in the afternoon. Sale of a public franchise under execution or order of sale on foreclosure must be made at the front door of the courthouse in the county in which the franchise was granted or by public auction sale by electronic media. Sales of real property shall be made at the courthouse door or by public auction sale by electronic media on Friday unless Friday is a legal holiday and then the sale shall be held on the next following regular business day.

(2) If at the time appointed for the sale the sheriff is prevented from attending at the place appointed or, being present, should deem it for the advantage of all concerned to postpone the sale for want of purchasers, or other sufficient cause, the sheriff may postpone the sale not exceeding one week next after the day appointed, and so from time to time for the like cause, giving notice of every adjournment by public proclamation made at the same time, and by posting written notices of such adjournment under the notices of sale originally posted. The sheriff for like causes may also adjourn the sale from time to time, not exceeding thirty days beyond the day at which the writ is made returnable, with the consent of the plaintiff indorsed upon the writ.

Sec. 13. RCW 6.21.090 and 1987 c 442 s 609 are each amended to read as follows:

(1)(a) The form and manner of selling real estate by execution shall be as follows: The sheriff shall proclaim aloud at the place of sale, in the hearing of all the bystanders: "I am about to sell the following tracts of real estate (here reading the description,) upon the following execution:" (here reading the execution). The sheriff shall also state the amount that is required upon the

execution, which shall include damages, interests and costs up to the day of sale, and increased costs. The sheriff shall then offer the land for sale.

(b) If the sale is by electronic media, a copy of the execution shall be posted on the website hosting the auction sale. The website shall also include a statement from the sheriff that states the amount that is required upon the execution, which shall include damages, interests and costs up to the day of sale, and increased costs. The sheriff shall then offer the land for sale.

(2) If the sale is of real property consisting of several known lots or parcels, they shall be sold separately or otherwise as the sheriff deems likely to bring the highest price, except that if an interest in a portion of such real property is claimed by a third person who, by request directed to the sheriff in writing prior to the sale or orally or in writing at the sale before the bidding is begun, requests that it be sold separately, such portion shall be sold separately. Bids on all land except town lots may be by the acre or by tract or parcel.

(3) If the land is sold by the acre and any fewer number of acres than the whole tract or parcel is sold, it shall be measured off to the purchaser in a square form, from the northeast corner of the tract or parcel, unless some person claiming an interest in the land, by request directed to the sheriff in writing prior to the sale or orally or in writing at the sale before the bidding is begun, requests that the land sold be taken from some other part or in some other form; in such case, if the request is reasonable, the officer making the sale shall sell accordingly.

(4) If an entire tract or parcel of land is sold by the acre, it shall not be measured but shall be deemed and taken to contain the number of acres named in the description, and be paid for accordingly; and if the number of acres is not contained in the description, the officer shall declare according to his or her judgment how many acres are contained therein, which shall be deemed and taken to be the true number of acres.

Sec. 14. RCW 6.21.100 and 1987 c 442 s 610 are each amended to read as follows:

(1)(a) The officer shall strike off the land to the highest bidder, who shall forthwith pay the money bid to the officer (~~), who shall return the money with the execution and the report of proceedings on the execution to the clerk of the court from which the execution issued: PROVIDED, HOWEVER, That when~~) or to their agent conducting the sale by electronic media. The sheriff or their agent conducting the sale by electronic media shall tender the money to the clerk of the court that issued the writ.

(b) When final judgment shall have been entered in the supreme court or the court of appeals and the execution upon which sale has been made issued from said court, the return shall be made to the superior court in which the action was originally commenced, and the same proceedings shall be had as though execution had issued from that superior court.

(2) At the time of the sale, the sheriff shall prepare a certificate of the sale, containing a particular description of the property sold, the price bid for each distinct lot or parcel, and the whole price paid; and when subject to redemption, it shall be so stated. The matters contained in such certificate shall be substantially stated in the sheriff's return of proceedings upon the writ. Upon receipt of the purchase price, the sheriff shall give a copy of the certificate to the

purchaser and the original certificate to the clerk of the court with the return on the execution to hold for delivery to the purchaser upon confirmation of the sale.

Sec. 15. RCW 84.56.020 and 2019 c 332 s 1 are each amended to read as follows:

Treasurers' tax collection duties.

(1) The county treasurer must be the receiver and collector of all taxes extended upon the tax rolls of the county, whether levied for state, county, school, bridge, road, municipal or other purposes, and also of all fines, forfeitures or penalties received by any person or officer for the use of his or her county. No treasurer may accept tax payments or issue receipts for the same until the treasurer has completed the tax roll for the current year's collection and provided notification of the completion of the roll. Notification may be accomplished electronically, by posting a notice in the office, or through other written communication as determined by the treasurer. All real and personal property taxes and assessments made payable by the provisions of this title are due and payable to the county treasurer on or before the thirtieth day of April and, except as provided in this section, are delinquent after that date.

Tax statements.

(2)(a) Tax statements for the current year's collection must be distributed to each taxpayer on or before March 15th provided that:

(i) All city and other taxing district budgets have been submitted to county legislative authorities by November 30th per RCW 84.52.020;

(ii) The county legislative authority in turn has certified taxes levied to the county assessor by November 30th per RCW 84.52.070; and

(iii) The county assessor has delivered the tax roll to the county treasurer by January 15th per RCW 84.52.080.

(b) Each tax statement must include a notice that checks for payment of taxes may be made payable to "Treasurer of County" or other appropriate office, but tax statements may not include any suggestion that checks may be made payable to the name of the individual holding the office of treasurer nor any other individual.

(c) Each tax statement distributed to an address must include a notice with information describing the:

(i) Property tax exemption program pursuant to RCW 84.36.379 through 84.36.389; and

(ii) Property tax deferral program pursuant to chapter 84.38 RCW.

Tax payment due dates.

On-time tax payments: First-half taxes paid by April 30th and second-half taxes paid by October 31st.

(3) When the total amount of tax or special assessments on personal property or on any lot, block or tract of real property payable by one person is fifty dollars or more, and if one-half of such tax is paid on or before the thirtieth day of April, the remainder of such tax is due and payable on or before the following thirty-first day of October and is delinquent after that date.

Delinquent tax payments for current year: First-half taxes paid after April 30th.

(4) When the total amount of tax or special assessments on any lot, block or tract of real property, personal property, or on any mobile home payable by one person is fifty dollars or more, and if one-half of such tax is paid after the

thirtieth day of April but before the thirty-first day of October, together with the applicable interest and penalty on the full amount of tax payable for that year, the remainder of such tax is due and payable on or before the following thirty-first day of October and is delinquent after that date.

Delinquent tax payments: Interest, penalties, and treasurer duties.

(5) Except as provided in (c) of this subsection, delinquent taxes under this section are subject to interest at the rate of twelve percent per annum computed on a monthly basis on the amount of tax delinquent from the date of delinquency until paid. Interest must be calculated at the rate in effect at the time of the tax payment, regardless of when the taxes were first delinquent. In addition, delinquent taxes under this section are subject to penalties as follows:

(a) A penalty of three percent of the amount of tax delinquent is assessed on the tax delinquent on June 1st of the year in which the tax is due.

(b) An additional penalty of eight percent is assessed on the delinquent tax amount on December 1st of the year in which the tax is due.

(c) If a taxpayer is successfully participating in a payment agreement under subsection (15)(b) of this section or a partial payment program pursuant to subsection (15)(c) of this section, the county treasurer may not assess additional penalties on delinquent taxes that are included within the payment agreement. Interest and penalties that have been assessed prior to the payment agreement remain due and payable as provided in the payment agreement.

(6) A county treasurer must provide notification to each taxpayer whose taxes have become delinquent under subsections (4) and (5) of this section. The delinquency notice must specify where the taxpayer can obtain information regarding:

(a) Any current tax or special assessments due as of the date of the notice;

(b) Any delinquent tax or special assessments due, including any penalties and interest, as of the date of the notice; and

(c) Where the taxpayer can pay his or her property taxes directly and contact information, including but not limited to the phone number, for the statewide foreclosure hotline recommended by the Washington state housing finance commission.

(7) Within ninety days after the expiration of two years from the date of delinquency (when a taxpayer's taxes have become delinquent), the county treasurer must provide the name and property address of the delinquent taxpayer to a homeownership resource center or any other designated local or state entity recommended by the Washington state housing finance commission.

Collection of foreclosure costs.

(8)(a) When real property taxes become delinquent and prior to the filing of the certificate of delinquency, the treasurer is authorized to assess and collect tax foreclosure avoidance costs.

(b) When tax foreclosure avoidance costs are collected, such costs must be credited to the county treasurer service fund account, except as otherwise directed.

(c) For purposes of chapter 84.64 RCW, any taxes, interest, or penalties deemed delinquent under this section remain delinquent until such time as all taxes, interest, and penalties for the tax year in which the taxes were first due and payable have been paid in full.

Periods of armed conflict.

(9) Subsection (5) of this section notwithstanding, no interest or penalties may be assessed during any period of armed conflict regarding delinquent taxes imposed on the personal residences owned by active duty military personnel who are participating as part of one of the branches of the military involved in the conflict and assigned to a duty station outside the territorial boundaries of the United States.

State of emergency.

(10) During a state of emergency declared under RCW 43.06.010(12), the county treasurer, on his or her own motion or at the request of any taxpayer affected by the emergency, may grant extensions of the due date of any taxes payable under this section as the treasurer deems proper.

Retention of funds from interest.

(11) All collections of interest on delinquent taxes must be credited to the county current expense fund.

(12) For purposes of this chapter, "interest" means both interest and penalties.

Retention of funds from property foreclosures and sales.

(13) The direct cost of foreclosure and sale of real property, and the direct fees and costs of distraint and sale of personal property, for delinquent taxes, must, when collected, be credited to the operation and maintenance fund of the county treasurer prosecuting the foreclosure or distraint or sale; and must be used by the county treasurer as a revolving fund to defray the cost of further foreclosure, distraint, and sale because of delinquent taxes without regard to budget limitations and not subject to indirect costs of other charges.

Tax due dates and options for tax payment collections.

Electronic billings and payments.

(14) For purposes of this chapter, and in accordance with this section and RCW 36.29.190, the treasurer may collect taxes, assessments, fees, rates, interest, and charges by electronic billing and payment. Electronic billing and payment may be used as an option by the taxpayer, but the treasurer may not require the use of electronic billing and payment. Electronic bill presentment and payment may be on a monthly or other periodic basis as the treasurer deems proper for:

- (a) Delinquent tax year payments; and
- (b) Prepayments of current tax.

Tax payments.

Prepayment for current taxes.

(15)(a) The treasurer may accept prepayments for current year taxes by any means authorized. All prepayments must be paid in full by the due date specified in subsection (16) of this section.

Payment agreements for current year taxes.

(b)(i) The treasurer may provide, by electronic means or otherwise, a payment agreement that provides for payment of current year taxes, inclusive of prepayment collection charges. The payment agreement must be signed by the taxpayer and treasurer or the treasurer's deputy prior to the sending of an electronic or alternative bill, which includes a payment plan for current year taxes.

Payment agreements for delinquent year taxes.

(ii)(A) The treasurer may provide, by electronic means or otherwise, a payment agreement for payment of past due delinquencies. The payment agreement must be signed by the taxpayer and treasurer or the treasurer's deputy prior to the sending of an electronic or alternative bill, which includes a payment plan for past due delinquent taxes and charges.

(B) Tax payments received by a treasurer for delinquent year taxes from a taxpayer participating on a payment agreement must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

Partial payments: Acceptance of partial payments for current and delinquent taxes.

(c)(i) In addition to the payment agreement program in (b) of this subsection, the treasurer may accept partial payment of any current and delinquent taxes including interest and penalties by any means authorized including electronic bill presentment and payments.

(ii) All tax payments received by a treasurer for delinquent year taxes from a taxpayer paying a partial payment must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

Payment for delinquent taxes.

(d) Payments on past due taxes must include collection of the oldest delinquent year, which includes interest, penalties, and taxes within an eighteen-month period, prior to filing a certificate of delinquency under chapter 84.64 RCW or distraint pursuant to RCW 84.56.070.

Due date for tax payments.

(16) All taxes upon real and personal property made payable by the provisions of this title are due and payable to the treasurer on or before the thirtieth day of April and are delinquent after that date. The remainder of the tax is due and payable on or before the following thirty-first of October and is delinquent after that date. All other assessments, fees, rates, and charges are delinquent after the due date.

Electronic funds transfers.

(17) A county treasurer may authorize payment of:

(a) Any current property taxes due under this chapter by electronic funds transfers on a monthly or other periodic basis; and

(b) Any past due property taxes, penalties, and interest under this chapter by electronic funds transfers on a monthly or other periodic basis. Delinquent taxes are subject to interest and penalties, as provided in subsection (5) of this section. All tax payments received by a treasurer from a taxpayer paying delinquent year taxes must be applied first to the oldest delinquent year unless such taxpayer requests otherwise.

Payment for administering prepayment collections.

(18) The treasurer must pay any collection costs, investment earnings, or both on past due payments or prepayments to the credit of a county treasurer service fund account to be created and used only for the payment of expenses incurred by the treasurer, without limitation, in administering the system for collecting prepayments.

Waiver of interest and penalties for qualified taxpayers subject to foreclosure.

(19) No earlier than sixty days prior to the date that is three years after the date of delinquency, the treasurer must waive all outstanding interest and

penalties on delinquent taxes due from a taxpayer if the property is subject to an action for foreclosure under chapter 84.64 RCW and the following requirements are met:

- (a) The taxpayer is income-qualified under RCW 84.36.381(5)(a), as verified by the county assessor;
- (b) The taxpayer occupies the property as their principal place of residence; and
- (c) The taxpayer has not previously received a waiver on the property as provided under this subsection.

Definitions.

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

(a) "Electronic billing and payment" means statements, invoices, or bills that are created, delivered, and paid using the internet. The term includes an automatic electronic payment from a person's checking account, debit account, or credit card.

(b) "Internet" has the same meaning as provided in RCW 19.270.010.

(c) "Tax foreclosure avoidance costs" means those direct costs associated with the administration of properties subject to and prior to foreclosure. Tax foreclosure avoidance costs include:

- (i) Compensation of employees for the time devoted to administering the avoidance of property foreclosure; and
- (ii) The cost of materials, services, or equipment acquired, consumed, or expended in administering tax foreclosure avoidance prior to the filing of a certificate of delinquency.

NEW SECTION. Sec. 16. Section 10 of this act takes effect July 1, 2022.

Passed by the House February 24, 2021.

Passed by the Senate April 8, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 123

[House Bill 1289]

WINERY EMPLOYEES BETWEEN AGE 18 AND 21

AN ACT Relating to winery workforce development; and amending RCW 66.44.318.

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

Sec. 1. RCW 66.44.318 and 2019 c 112 s 2 are each amended to read as follows:

(1) Except as provided in this section, nothing is construed to permit a nonretail class liquor licensee's employee or intern between the ages of eighteen and twenty-one years to handle, transport, or otherwise possess liquor.

(2) Licensees holding nonretail class liquor licenses are permitted to allow their employees between the ages of eighteen and twenty-one years to stock, merchandise, and handle liquor on or about the:

- (a) Nonretail premises if there is an adult twenty-one years of age or older on duty supervising such activities on the premises; and

(b) Retail licensee's premises, except between 11:00 p.m. and 4:00 a.m., as long as there is an adult twenty-one years of age or older, employed by the retail licensee, and present at the retail licensee's premises during the activities described in this subsection (2).

(3) Employees of a domestic winery who are at least age 18 but under 21 years of age may engage in wine production and work in a winery's production facility, so long as there is an adult age 21 years of age or older on duty supervising such activities on the premises. Nothing in this subsection authorizes a winery employee under age 21 to taste, consume, sell, or serve wine or liquor.

(4) Any act or omission of the nonretail class liquor licensee's employee occurring at or about the retail licensee's premises, which violates any provision of this title, is the sole responsibility of the nonretail class liquor licensee.

~~((4))~~ (5) Nothing in this section absolves the retail licensee from responsibility for the acts or omissions of its own employees who violate any provision of this title.

~~((5))~~ (6)(a) Licensees holding a domestic winery license are permitted to allow their interns who are between the ages of eighteen and twenty-one years old to engage in wine-production related work at the domestic winery's licensed location, so long as the intern is enrolled as a student:

(i) At a community or technical college, regional university, or state university with a special permit issued in accordance with RCW 66.20.010; and

(ii) In a required or elective class as part of a degree program identified in RCW 66.20.010(12)(b).

(b) Any act or omission of the domestic winery's intern occurring at or about the domestic winery's premises, which violates any provision of this title, is the sole responsibility of the domestic winery.

Passed by the House April 13, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 124

[House Bill 1296]

GOVERNMENT-FUNDED BEHAVIORAL HEALTH CARE—BUSINESS AND OCCUPATION TAX PREFERENCE

AN ACT Relating to providing a business and occupation tax preference for behavioral health administrative services organizations; adding a new section to chapter 82.04 RCW; creating new sections; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that COVID-19 has had significant impacts on behavioral health. The legislature previously had a feature of its tax system that exempted government-funded behavioral health services from paying business and occupation tax in order for more tax dollars to be utilized in providing health services. The legislature intends to reenact that preference in light of increased behavioral health needs for the foreseeable future, and in recognition that treatment reduces costs to the government in other services.

NEW SECTION. Sec. 2. (1) This section is the tax preference performance statement for the tax preference contained in section 3, chapter . . . , Laws of 2021 (section 3 of this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or to be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to accomplish a general purpose, reducing taxes so more money can go directly to behavioral health services, as indicated in RCW 82.32.808(2)(f).

(3) It is the legislature's specific public policy objective to support behavioral health services that can prevent more serious and costly health issues.

(4) If a review finds that the amount of funding available for behavioral health services by these taxpayers increased, then the legislature intends to extend the expiration date of the tax preference.

(5) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may refer to any data collected by the state.

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

(1) A health or social welfare organization may deduct from the measure of tax amounts received as compensation for providing mental health services or substance use disorder treatment services under a government-funded program.

(2) A behavioral health administrative services organization may deduct from the measure of tax amounts received from the state of Washington for distribution to a health or social welfare organization that is eligible to deduct the distribution under subsection (1) of this section.

(3) A person claiming a deduction under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

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

(a) "Behavioral health administrative services organization" has the same meaning as provided in RCW 71.24.025.

(b) "Health or social welfare organization" has the same meaning as provided in RCW 82.04.431.

(c) "Mental health services" means mental health services as described in chapter 71.24 RCW.

(d) "Substance use disorder treatment services" means substance use disorder treatment services as described in chapter 71.24 RCW.

(5) This section expires January 1, 2032.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 9, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 125

[Substitute House Bill 1314]

VETERANS—BEHAVIORAL HEALTH—INVOLUNTARY COMMITMENT DIVERSION

AN ACT Relating to veteran diversion from involuntary commitment; reenacting and amending RCW 71.05.153 and 71.05.153; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 71.05.153 and 2020 c 302 s 16 and 2020 c 5 s 4 are each reenacted and amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as the result of a behavioral health disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility, secure withdrawal management and stabilization facility if available with adequate space for the person, or approved substance use disorder treatment program if available with adequate space for the person, for not more than one hundred twenty hours as described in RCW 71.05.180.

(2)(a) Subject to (b) of this subsection, a peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, secure withdrawal management and stabilization facility, approved substance use disorder treatment program, or the emergency department of a local hospital under the following circumstances:

(i) Pursuant to subsection (1) of this section; or

(ii) When he or she has reasonable cause to believe that such person is suffering from a behavioral health disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(b) A peace officer's delivery of a person, to a secure withdrawal management and stabilization facility or approved substance use disorder treatment program is subject to the availability of a secure withdrawal management and stabilization facility or approved substance use disorder treatment program with adequate space for the person.

(3) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, triage facility that has elected to operate as an involuntary facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program by peace officers pursuant to subsection (2) of this section may be held by the facility for a period of up to twelve hours, not counting time periods prior to medical clearance.

(4) Within three hours after arrival, not counting time periods prior to medical clearance, the person must be examined by a mental health professional or substance use disorder professional. Within twelve hours of notice of the need for evaluation, not counting time periods prior to medical clearance, the designated crisis responder must determine whether the individual meets detention criteria. In conjunction with this evaluation, the facility where the patient is located must inquire as to a person's veteran status or eligibility for

veterans benefits and, if the person appears to be potentially eligible for these benefits, inquire whether the person would be amenable to treatment by the veterans health administration compared to other relevant treatment options. This information must be shared with the designated crisis responder. If the person has been identified as being potentially eligible for veterans health administration services and as being amenable for those services, and if appropriate in light of all reasonably available information about the person's circumstances, the designated crisis responder must first refer the person to the veterans health administration for mental health or substance use disorder treatment at a facility capable of meeting the needs of the person including, but not limited to, the involuntary treatment options available at the Seattle division of the VA Puget Sound health care system. If the person is accepted for treatment by the veterans health administration, and is willing to accept treatment by the veterans health administration as an alternative to other available treatment options, the designated crisis responder, the veterans health administration, and the facility where the patient is located will work to make arrangements to have the person transported to a veterans health administration facility. The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is present with the person at the time of the interview. If the individual is detained, the designated crisis responder shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the behavioral health service provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

(5) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated crisis responder has totally disregarded the requirements of this section.

Sec. 2. RCW 71.05.153 and 2020 c 302 s 17 and 2020 c 5 s 5 are each reenacted and amended to read as follows:

(1) When a designated crisis responder receives information alleging that a person, as the result of a behavioral health disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any, the designated crisis responder may take such person, or cause by oral or written order such person to be taken into emergency custody in an evaluation and treatment facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program, for not more than one hundred twenty hours as described in RCW 71.05.180.

(2) A peace officer may take or cause such person to be taken into custody and immediately delivered to a triage facility, crisis stabilization unit, evaluation and treatment facility, secure withdrawal management and stabilization facility,

approved substance use disorder treatment program, or the emergency department of a local hospital under the following circumstances:

(a) Pursuant to subsection (1) of this section; or

(b) When he or she has reasonable cause to believe that such person is suffering from a behavioral health disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

(3) Persons delivered to a crisis stabilization unit, evaluation and treatment facility, emergency department of a local hospital, triage facility that has elected to operate as an involuntary facility, secure withdrawal management and stabilization facility, or approved substance use disorder treatment program by peace officers pursuant to subsection (2) of this section may be held by the facility for a period of up to twelve hours, not counting time periods prior to medical clearance.

(4) Within three hours after arrival, not counting time periods prior to medical clearance, the person must be examined by a mental health professional or substance use disorder professional. Within twelve hours of notice of the need for evaluation, not counting time periods prior to medical clearance, the designated crisis responder must determine whether the individual meets detention criteria. In conjunction with this evaluation, the facility where the patient is located must inquire as to a person's veteran status or eligibility for veterans benefits and, if the person appears to be potentially eligible for these benefits, inquire whether the person would be amenable to treatment by the veterans health administration compared to other relevant treatment options. This information must be shared with the designated crisis responder. If the person has been identified as being potentially eligible for veterans health administration services and as being amenable for those services, and if appropriate in light of all reasonably available information about the person's circumstances, the designated crisis responder must first refer the person to the veterans health administration for mental health or substance use disorder treatment at a facility capable of meeting the needs of the person including, but not limited to, the involuntary treatment options available at the Seattle division of the VA Puget Sound health care system. If the person is accepted for treatment by the veterans health administration, and is willing to accept treatment by the veterans health administration as an alternative to other available treatment options, the designated crisis responder, the veterans health administration, and the facility where the patient is located will work to make arrangements to have the person transported to a veterans health administration facility. The interview performed by the designated crisis responder may be conducted by video provided that a licensed health care professional or professional person who can adequately and accurately assist with obtaining any necessary information is present with the person at the time of the interview. If the individual is detained, the designated crisis responder shall file a petition for detention or a supplemental petition as appropriate and commence service on the designated attorney for the detained person. If the individual is released to the community, the behavioral health service provider shall inform the peace officer of the release within a reasonable period of time after the release if the peace officer has specifically requested notification and provided contact information to the provider.

(5) Dismissal of a commitment petition is not the appropriate remedy for a violation of the timeliness requirements of this section based on the intent of this chapter under RCW 71.05.010 except in the few cases where the facility staff or designated crisis responder has totally disregarded the requirements of this section.

NEW SECTION. **Sec. 3.** Section 1 of this act expires July 1, 2026.

NEW SECTION. **Sec. 4.** Section 2 of this act takes effect July 1, 2026.

Passed by the House March 7, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 126

[Second Substitute House Bill 1325]

CHILDREN AND YOUTH BEHAVIORAL HEALTH—VARIOUS PROVISIONS

AN ACT Relating to implementing policies related to children and youth behavioral health as reviewed and recommended by the children and youth behavioral health work group; amending RCW 71.24.061 and 74.09.520; and creating a new section.

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

Sec. 1. RCW 71.24.061 and 2020 c 291 s 1 are each amended to read as follows:

(1) The authority shall provide flexibility to encourage licensed or certified community behavioral health agencies to subcontract with an adequate, culturally competent, and qualified children's mental health provider network.

(2) To the extent that funds are specifically appropriated for this purpose or that nonstate funds are available, a children's mental health evidence-based practice institute shall be established at the University of Washington department of psychiatry and behavioral sciences. The institute shall closely collaborate with entities currently engaged in evaluating and promoting the use of evidence-based, research-based, promising, or consensus-based practices in children's mental health treatment, including but not limited to the University of Washington department of psychiatry and behavioral sciences, Seattle children's hospital, the University of Washington school of nursing, the University of Washington school of social work, and the Washington state institute for public policy. To ensure that funds appropriated are used to the greatest extent possible for their intended purpose, the University of Washington's indirect costs of administration shall not exceed ten percent of appropriated funding. The institute shall:

(a) Improve the implementation of evidence-based and research-based practices by providing sustained and effective training and consultation to licensed children's mental health providers and child-serving agencies who are implementing evidence-based or researched-based practices for treatment of children's emotional or behavioral disorders, or who are interested in adapting these practices to better serve ethnically or culturally diverse children. Efforts under this subsection should include a focus on appropriate oversight of implementation of evidence-based practices to ensure fidelity to these practices and thereby achieve positive outcomes;

(b) Continue the successful implementation of the "partnerships for success" model by consulting with communities so they may select, implement, and continually evaluate the success of evidence-based practices that are relevant to the needs of children, youth, and families in their community;

(c) Partner with youth, family members, family advocacy, and culturally competent provider organizations to develop a series of information sessions, literature, and online resources for families to become informed and engaged in evidence-based and research-based practices;

(d) Participate in the identification of outcome-based performance measures under RCW 71.36.025(2) and partner in a statewide effort to implement statewide outcomes monitoring and quality improvement processes; and

(e) Serve as a statewide resource to the authority and other entities on child and adolescent evidence-based, research-based, promising, or consensus-based practices for children's mental health treatment, maintaining a working knowledge through ongoing review of academic and professional literature, and knowledge of other evidence-based practice implementation efforts in Washington and other states.

(3)(a) To the extent that funds are specifically appropriated for this purpose, the authority in collaboration with the University of Washington department of psychiatry and behavioral sciences and Seattle children's hospital shall implement the following access lines:

(i) ~~((Implement a))~~ The partnership access line to support primary care providers in the assessment and provision of appropriate diagnosis and treatment of children with mental and behavioral health disorders and track outcomes of this program;

~~((Beginning January 1, 2019, implement a two-year pilot program to:~~

~~(A) Create the))~~ The partnership access line for moms to support obstetricians, pediatricians, primary care providers, mental health professionals, and other health care professionals providing care to pregnant women and new mothers through same-day telephone consultations in the assessment and provision of appropriate diagnosis and treatment of depression in pregnant women and new mothers; and

~~((B) Create the partnership access line for kids referral and assistance service))~~ (iii) The mental health referral service for children and teens to facilitate referrals to children's mental health services and other resources for parents and guardians with concerns related to the mental health of the parent or guardian's child. Facilitation activities include assessing the level of services needed by the child; within an average of seven days ~~((of receiving a call))~~ from call intake processing with a parent or guardian, identifying mental health professionals who are in-network with the child's health care coverage who are accepting new patients and taking appointments; coordinating contact between the parent or guardian and the mental health professional; and providing postreferral reviews to determine if the child has outstanding needs. In conducting its referral activities, the program shall collaborate with existing databases and resources to identify in-network mental health professionals.

(b) The program activities described in (a)~~((i) and (a)(ii)(A))~~ of this subsection shall be designed to promote more accurate diagnoses and treatment through timely case consultation between primary care providers and child

psychiatric specialists, and focused educational learning collaboratives with primary care providers.

(4) The authority, in collaboration with the University of Washington department of psychiatry and behavioral sciences and Seattle children's hospital, shall report on the following:

(a) The number of individuals who have accessed the resources described in subsection (3) of this section;

(b) The number of providers, by type, who have accessed the resources described in subsection (3) of this section;

(c) Demographic information, as available, for the individuals described in (a) of this subsection. Demographic information may not include any personally identifiable information and must be limited to the individual's age, gender, and city and county of residence;

(d) A description of resources provided;

(e) Average time frames from receipt of call to referral for services or resources provided; and

(f) Systemic barriers to services, as determined and defined by the health care authority, the University of Washington department of psychiatry and behavioral sciences, and Seattle children's hospital.

(5) Beginning December 30, 2019, and annually thereafter, the authority must submit, in compliance with RCW 43.01.036, a report to the governor and appropriate committees of the legislature with findings and recommendations for improving services and service delivery from subsection (4) of this section.

(6) The authority shall enforce requirements in managed care contracts to ensure care coordination and network adequacy issues are addressed in order to remove barriers to access to mental health services identified in the report described in subsection (4) of this section.

~~((7) Subsections (4) through (6) of this section expire January 1, 2021.))~~

Sec. 2. RCW 74.09.520 and 2017 c 202 s 4 are each amended to read as follows:

(1) The term "medical assistance" may include the following care and services subject to rules adopted by the authority or department: (a) Inpatient hospital services; (b) outpatient hospital services; (c) other laboratory and X-ray services; (d) nursing facility services; (e) physicians' services, which shall include prescribed medication and instruction on birth control devices; (f) medical care, or any other type of remedial care as may be established by the secretary or director; (g) home health care services; (h) private duty nursing services; (i) dental services; (j) physical and occupational therapy and related services; (k) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (l) personal care services, as provided in this section; (m) hospice services; (n) other diagnostic, screening, preventive, and rehabilitative services; and (o) like services when furnished to a child by a school district in a manner consistent with the requirements of this chapter. For the purposes of this section, neither the authority nor the department may cut off any prescription medications, oxygen supplies, respiratory services, or other life-sustaining medical services or supplies.

"Medical assistance," notwithstanding any other provision of law, shall not include routine foot care, or dental services delivered by any health care

provider, that are not mandated by Title XIX of the social security act unless there is a specific appropriation for these services.

(2) The department shall adopt, amend, or rescind such administrative rules as are necessary to ensure that Title XIX personal care services are provided to eligible persons in conformance with federal regulations.

(a) These administrative rules shall include financial eligibility indexed according to the requirements of the social security act providing for medicaid eligibility.

(b) The rules shall require clients be assessed as having a medical condition requiring assistance with personal care tasks. Plans of care for clients requiring health-related consultation for assessment and service planning may be reviewed by a nurse.

(c) The department shall determine by rule which clients have a health-related assessment or service planning need requiring registered nurse consultation or review. This definition may include clients that meet indicators or protocols for review, consultation, or visit.

(3) The department shall design and implement a means to assess the level of functional disability of persons eligible for personal care services under this section. The personal care services benefit shall be provided to the extent funding is available according to the assessed level of functional disability. Any reductions in services made necessary for funding reasons should be accomplished in a manner that assures that priority for maintaining services is given to persons with the greatest need as determined by the assessment of functional disability.

(4) Effective July 1, 1989, the authority shall offer hospice services in accordance with available funds.

(5) For Title XIX personal care services administered by aging and disability services administration of the department, the department shall contract with area agencies on aging:

(a) To provide case management services to individuals receiving Title XIX personal care services in their own home; and

(b) To reassess and reauthorize Title XIX personal care services or other home and community services as defined in RCW 74.39A.009 in home or in other settings for individuals consistent with the intent of this section:

(i) Who have been initially authorized by the department to receive Title XIX personal care services or other home and community services as defined in RCW 74.39A.009; and

(ii) Who, at the time of reassessment and reauthorization, are receiving such services in their own home.

(6) In the event that an area agency on aging is unwilling to enter into or satisfactorily fulfill a contract or an individual consumer's need for case management services will be met through an alternative delivery system, the department is authorized to:

(a) Obtain the services through competitive bid; and

(b) Provide the services directly until a qualified contractor can be found.

(7) Subject to the availability of amounts appropriated for this specific purpose, the authority may offer medicare part D prescription drug copayment coverage to full benefit dual eligible beneficiaries.

(8) Effective January 1, 2016, the authority shall require universal screening and provider payment for autism and developmental delays as recommended by the bright futures guidelines of the American academy of pediatrics, as they existed on August 27, 2015. This requirement is subject to the availability of funds.

(9) Subject to the availability of amounts appropriated for this specific purpose, effective January 1, 2018, the authority shall require provider payment for annual depression screening for youth ages twelve through eighteen as recommended by the bright futures guidelines of the American academy of pediatrics, as they existed on January 1, 2017. Providers may include, but are not limited to, primary care providers, public health nurses, and other providers in a clinical setting. This requirement is subject to the availability of funds appropriated for this specific purpose.

(10) Subject to the availability of amounts appropriated for this specific purpose, effective January 1, 2018, the authority shall require provider payment for maternal depression screening for mothers of children ages birth to six months. This requirement is subject to the availability of funds appropriated for this specific purpose.

(11) Subject to the availability of amounts appropriated for this specific purpose, the authority shall:

(a) Allow otherwise eligible reimbursement for the following related to mental health assessment and diagnosis of children from birth through five years of age:

(i) Up to five sessions for purposes of intake and assessment, if necessary;

(ii) Assessments in home or community settings, including reimbursement for provider travel; and

(b) Require providers to use the current version of the DC:0-5 diagnostic classification system for mental health assessment and diagnosis of children from birth through five years of age.

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, 2021, in the omnibus appropriations act, this act is null and void.

Passed by the House February 26, 2021.

Passed by the Senate April 8, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 127

[Engrossed Substitute House Bill 1326]

CORONERS AND MEDICAL EXAMINERS—VARIOUS PROVISIONS

AN ACT Relating to coroners and medical examiners; amending RCW 36.16.030, 36.16.030, 36.17.020, 68.50.010, and 68.50.104; adding new sections to chapter 36.24 RCW; adding a new section to chapter 43.101 RCW; providing an effective date; and providing an expiration date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 36.24 RCW to read as follows:

Within 12 months of being elected or appointed to the office, a coroner or medical examiner must have a certificate of completion of medicolegal forensic investigation training that complies with the standards adopted for the medicolegal training academy adopted by the criminal justice training commission in conjunction with the Washington association of coroners and medical examiners and a practicing physician selected by the commission pursuant to section 3 of this act. This requirement does not apply to an elected prosecutor acting as the ex officio coroner in a county. All medicolegal investigative personnel employed by any coroner's or medical examiner's office must complete medicolegal forensic investigation training as required under section 3 of this act. A county in which the coroner or county medical examiner has not obtained such certification within 12 months of assuming office may have its reimbursement from the death investigations account reduced as provided under RCW 68.50.104.

NEW SECTION. Sec. 2. A new section is added to chapter 36.24 RCW to read as follows:

Except those run by a county prosecutor, all county coroner's offices and medical examiner's offices must be accredited by either the international association of coroners and medical examiners or the national association of medical examiners no later than July 1, 2025, and maintain continued accreditation thereafter. A county that contracts for its coroner or medical examiner services with an accredited coroner or medical examiner's office in another county does not need to maintain accreditation.

NEW SECTION. Sec. 3. A new section is added to chapter 43.101 RCW to read as follows:

(1)(a) All elected coroners, appointed coroners, persons serving as coroners, medical examiners, and all other full-time medicolegal investigative personnel employed by a county coroner's or medical examiner's office must successfully complete medicolegal forensic investigation training through the medicolegal training academy program within 12 months of being elected, appointed, or employed unless otherwise exempted by the commission. This section does not apply to elected prosecutors who are coroners in their counties.

(b) All part-time medicolegal investigative personnel employed by a county coroner's or medical examiner's office must successfully complete medicolegal forensic investigation training through the medicolegal training academy program within 18 months of being employed unless otherwise exempted by the commission.

(2) The commission, in conjunction with the Washington association of coroners and medical examiners and a practicing physician selected by the commission, shall develop the medicolegal forensic investigation training curriculum and adopt the standards for the medicolegal training academy and any exemption from the requirement to complete the medicolegal forensic investigation training. The commission shall exempt from this requirement any coroner, medical examiner, or medicolegal investigative personnel who has obtained training comparable to the medicolegal forensic investigation training by virtue of educational or professional training or experience.

(3) The commission must certify successful completion of the medicolegal forensic investigation training or exemption from the medicolegal training

requirement within 60 days from the receipt of proof of completion or request for exemption.

(4) The medicolegal forensic investigation training required under this section must:

(a) Meet the recommendations of the national commission on forensic science for certification and accreditation; and

(b) Satisfy the requirements for training on the subject of sudden, unexplained child death including, but not limited to, sudden infant death syndrome developed pursuant to RCW 43.103.100 and missing persons protocols pursuant to RCW 43.103.110.

(5) Certification under this section is a condition of continued employment in a coroner's or medical examiner's office.

(6) A county in which a coroner, person serving as coroner, medical examiner, or other medicolegal investigative employee, who has not otherwise been exempted by the commission, is not certified within 12 months of being elected, appointed, or employed as required by this section, may have its reimbursement from the death investigations account reduced as provided under RCW 68.50.104 until the office is in compliance with all requirements under this section.

Sec. 4. RCW 36.16.030 and 2015 c 53 s 61 are each amended to read as follows:

Except as provided elsewhere in this section, in every county there shall be elected from among the qualified voters of the county a county assessor, a county auditor, a county clerk, a county coroner, three county commissioners, a county prosecuting attorney, a county sheriff, and a county treasurer, except that in each county with a population of less than forty thousand the county legislative authority may determine that no coroner shall be elected and ~~((the prosecuting attorney shall be ex officio coroner. Whenever the population of a county increases to forty thousand or more, the prosecuting attorney shall continue as ex officio coroner until a coroner is elected, at the next general election at which the office of prosecuting attorney normally would be elected, and assumes office as provided in RCW 29A.60.280. In any county where the population has once attained forty thousand people and a current coroner is in office and a subsequent census indicates less than forty thousand people, the county legislative authority may maintain the office of coroner by resolution or ordinance. If the county legislative authority has not passed a resolution or enacted an ordinance to maintain the office of coroner, the elected coroner shall remain in office for the remainder of the term for which he or she was elected, but no coroner shall be elected at the next election at which that office would otherwise be filled and the prosecuting attorney shall be the ex officio coroner))~~ instead appoint a coroner. In a county with a population of two hundred fifty thousand or more, the county legislative authority may replace the office of coroner with a medical examiner system and appoint a medical examiner as specified in RCW 36.24.190. Any county may enter into an interlocal agreement under chapter 39.34 RCW with an adjoining county for the provision of coroner or medical examiner services. A noncharter county may have five county commissioners as provided in RCW 36.32.010 and 36.32.055 through 36.32.0558.

Sec. 5. RCW 36.16.030 and 2015 c 53 s 61 are each amended to read as follows:

Except as provided elsewhere in this section, in every county there shall be elected from among the qualified voters of the county a county assessor, a county auditor, a county clerk, a county coroner, three county commissioners, a county prosecuting attorney, a county sheriff, and a county treasurer, except that in each county with a population of less than forty thousand no coroner shall be elected and the prosecuting attorney shall be ex officio coroner. Whenever the population of a county increases to forty thousand or more, the prosecuting attorney shall continue as ex officio coroner until a coroner is elected, at the next general election at which the office of prosecuting attorney normally would be elected, and assumes office as provided in RCW 29A.60.280. In any county where the population has once attained forty thousand people and a current coroner is in office and a subsequent census indicates less than forty thousand people, the county legislative authority may maintain the office of coroner by resolution or ordinance. If the county legislative authority has not passed a resolution or enacted an ordinance to maintain the office of coroner, the elected coroner shall remain in office for the remainder of the term for which he or she was elected, but no coroner shall be elected at the next election at which that office would otherwise be filled and the prosecuting attorney shall be the ex officio coroner. In a county with a population of two hundred fifty thousand or more, the county legislative authority may replace the office of coroner with a medical examiner system and appoint a medical examiner as specified in RCW 36.24.190. Any county may enter into an interlocal agreement under chapter 39.34 RCW with an adjoining county for the provision of coroner or medical examiner services. A noncharter county may have five county commissioners as provided in RCW 36.32.010 and 36.32.055 through 36.32.0558.

Sec. 6. RCW 36.17.020 and 2008 c 309 s 2 are each amended to read as follows:

The county legislative authority of each county or a county commissioner or councilmember salary commission which conforms with RCW 36.17.024 is authorized to establish the salaries of the elected officials of the county. The state and county shall contribute to the costs of the salary of the elected prosecuting attorney as set forth in subsection (11) of this section. The annual salary of a county elected official shall not be less than the following:

(1) In each county with a population of one million or more: Auditor, clerk, treasurer, sheriff, members of the county legislative authority, and coroner, eighteen thousand dollars; and assessor, nineteen thousand dollars;

(2) In each county with a population of from two hundred ten thousand to less than one million: Auditor, seventeen thousand six hundred dollars; clerk, seventeen thousand six hundred dollars; treasurer, seventeen thousand six hundred dollars; sheriff, nineteen thousand five hundred dollars; assessor, seventeen thousand six hundred dollars; members of the county legislative authority, nineteen thousand five hundred dollars; and coroner, seventeen thousand six hundred dollars;

(3) In each county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand: Auditor, sixteen thousand dollars; clerk, sixteen thousand dollars; treasurer, sixteen thousand dollars; sheriff, seventeen thousand six hundred dollars; assessor, sixteen thousand

dollars; members of the county legislative authority, seventeen thousand six hundred dollars; and coroner, sixteen thousand dollars;

(4) In each county with a population of from seventy thousand to less than one hundred twenty-five thousand: Auditor, fourteen thousand nine hundred dollars; clerk, fourteen thousand nine hundred dollars; treasurer, fourteen thousand nine hundred dollars; assessor, fourteen thousand nine hundred dollars; sheriff, fourteen thousand nine hundred dollars; members of the county legislative authority, fourteen thousand nine hundred dollars; and coroner, fourteen thousand nine hundred dollars;

(5) In each county with a population of from forty thousand to less than seventy thousand: Auditor, thirteen thousand eight hundred dollars; clerk, thirteen thousand eight hundred dollars; treasurer, thirteen thousand eight hundred dollars; assessor, thirteen thousand eight hundred dollars; sheriff, thirteen thousand eight hundred dollars; members of the county legislative authority, thirteen thousand eight hundred dollars; and coroner, thirteen thousand eight hundred dollars;

(6) In each county with a population of from eighteen thousand to less than forty thousand: Auditor, twelve thousand one hundred dollars; clerk, twelve thousand one hundred dollars; treasurer, twelve thousand one hundred dollars; sheriff, twelve thousand one hundred dollars; assessor, twelve thousand one hundred dollars; ~~(and)~~ members of the county legislative authority, eleven thousand dollars; and coroner, \$11,000 or on a per case basis as determined by the county legislative authority;

(7) In each county with a population of from twelve thousand to less than eighteen thousand: Auditor, ten thousand one hundred dollars; clerk, ten thousand one hundred dollars; treasurer, ten thousand one hundred dollars; assessor, ten thousand one hundred dollars; sheriff, eleven thousand two hundred dollars; ~~(and)~~ members of the county legislative authority, nine thousand four hundred dollars; and coroner, \$9,400 or on a per case basis as determined by the county legislative authority;

(8) In each county with a population of from eight thousand to less than twelve thousand: Auditor, ten thousand one hundred dollars; clerk, ten thousand one hundred dollars; treasurer, ten thousand one hundred dollars; assessor, ten thousand one hundred dollars; sheriff, eleven thousand two hundred dollars; ~~(and)~~ members of the county legislative authority, seven thousand dollars; and coroner, \$7,000 or on a per case basis as determined by the county legislative authority;

(9) In each county with a population of from five thousand to less than eight thousand: Auditor, nine thousand one hundred dollars; clerk, nine thousand one hundred dollars; treasurer, nine thousand one hundred dollars; assessor, nine thousand one hundred dollars; sheriff, ten thousand five hundred dollars; ~~(and)~~ members of the county legislative authority, six thousand five hundred dollars; and coroner, \$6,500 or on a per case basis as determined by the county legislative authority;

(10) In each other county: Auditor, nine thousand one hundred dollars; clerk, nine thousand one hundred dollars; treasurer, nine thousand one hundred dollars; sheriff, ten thousand five hundred dollars; assessor, nine thousand one hundred dollars; ~~(and)~~ members of the county legislative authority, six

thousand five hundred dollars; and coroner, \$6,500 or on a per case basis as determined by the county legislative authority;

(11) The state of Washington shall contribute an amount equal to one-half the salary of a superior court judge towards the salary of the elected prosecuting attorney. Upon receipt of the state contribution, a county shall continue to contribute towards the salary of the elected prosecuting attorney in an amount that equals or exceeds that contributed by the county in 2008.

Sec. 7. RCW 68.50.010 and 1963 c 178 s 1 are each amended to read as follows:

The jurisdiction of bodies of all deceased persons who come to their death suddenly when in apparent good health without medical attendance within the thirty-six hours preceding death; or where the circumstances of death indicate death was caused by unnatural or unlawful means; or where death occurs under suspicious circumstances; or where a coroner's autopsy or postmortem or coroner's inquest is to be held; or where death results from unknown or obscure causes, or where death occurs within one year following an accident; or where the death is caused by any violence whatsoever, or where death results from a known or suspected abortion; whether self-induced or otherwise; where death apparently results from drowning, hanging, burns, electrocution, gunshot wounds, stabs or cuts, lightning, starvation, radiation, exposure, alcoholism, narcotics or other addictions, tetanus, strangulations, suffocation or smothering; or where death is due to premature birth or still birth; or where death is due to a violent contagious disease or suspected contagious disease which may be a public health hazard; or where death results from alleged rape, carnal knowledge or sodomy, where death occurs in a jail or prison; where a body is found dead or is not claimed by relatives or friends, is hereby vested in the county coroner or medical examiner, which bodies may be removed and placed in the morgue under such rules as are adopted by the coroner or medical examiner with the approval of the county commissioners, having jurisdiction, providing therein how the bodies shall be brought to and cared for at the morgue and held for the proper identification where necessary.

Sec. 8. RCW 68.50.104 and 2019 c 317 s 4 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 (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:

(i) Up to forty percent of the cost of contracting for the services of a pathologist to perform an autopsy;

(ii) Up to ~~((twenty-five))~~ 30 percent of the salary of pathologists who are primarily engaged in performing autopsies and are (A) county coroners or county medical examiners, or (B) employees of a county coroner or county medical examiner; and

(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.

(4) Where the county coroner's office or county medical examiner's office is not accredited pursuant to section 2 of this act, or a coroner, medical examiner, or other medicolegal investigative employee is not certified as required by sections 1 and 3 of this act, the state treasurer's office shall withhold 25 percent of autopsy reimbursement funds until accreditation under section 2 of this act or compliance with sections 1 and 3 of this act is achieved.

NEW SECTION. Sec. 9. Sections 4 and 6 of this act take effect January 1, 2025.

NEW SECTION. Sec. 10. Section 5 of this act expires January 1, 2025.

Passed by the House April 13, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 128

[Substitute House Bill 1356]

NATIVE AMERICAN NAMES, SYMBOLS, OR IMAGES—PUBLIC SCHOOLS

AN ACT Relating to prohibiting the inappropriate use of Native American names, symbols, or images as public school mascots, logos, or team names; adding new sections to chapter 28A.320 RCW; creating new sections; 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 use of racially derogatory or discriminatory school mascots, logos, or team names in public schools is antithetical to their mission of providing an equal education to all, and contrary to the goal of making schools safe and respectful learning environments.

(2) The legislature finds also that certain mascots, logos, or team names that are or have been used by schools and other entities are uniquely discriminatory in singling out the Native American community for derision and cultural appropriation.

(3) Although the inappropriate use of Native American names, symbols, or images may be premised on the promotion of unity or school spirit, their use fails to respect the cultural heritage of Native Americans and promote productive relationships between sovereign governments. Furthermore, numerous individuals and organizations, including the United States commission on civil rights, have concluded that the use of Native American images and names in school sports is a barrier to equality and understanding, and that all residents of the United States would benefit from the discontinuance of their use.

(4) The legislature therefore, recognizing that no school has a cognizable interest in retaining a racially derogatory or discriminatory school mascot, logo, or team name, intends to prohibit the inappropriate use of Native American names, symbols, or images for those purposes.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.320 RCW to read as follows:

(1) Except as provided otherwise by this section, beginning January 1, 2022, public schools may not use Native American names, symbols, or images as school mascots, logos, or team names.

(2) Subsection (1) of this section does not apply to public schools located within, or with enrollment boundaries that include a portion of, "Indian country," as defined in 18 U.S.C. Sec. 1151, or public schools in a county that contains all or part of a tribal reservation or tribal trust lands, if the tribe or tribes having regulatory jurisdiction over the territory within that boundary have:

(a) Been consulted by the appropriate school, district, or both. Consultations under this subsection (2)(a) must include summaries of completed and ongoing district and school actions required by RCW 28A.320.170; and

(b) Authorized the use of the name, symbol, or image as a mascot, logo, or team name through an appropriate enactment or resolution.

(3) A public school may use uniforms or other materials after January 1, 2022, bearing Native American names, symbols, or images as mascots, logos, or team names if the uniforms or materials were purchased before January 1, 2022, and if:

(a) The school selects a new mascot, logo, or team name by December 31, 2021, to take effect in the 2021-22 school year;

(b) Except as provided otherwise by this subsection (3)(b), the school does not purchase or acquire any uniforms or materials that include the discontinued Native American name, symbol, or image. However, a school using the discontinued Native American name, symbol, or image may, until January 1, 2023, purchase or acquire a number of uniforms equal to up to twenty percent of the total number of uniforms used by a team, band, or cheer squad at that school during the 2021-22 school year solely to replace damaged or lost uniforms;

(c) The school does not purchase, create, or acquire any yearbook, newspaper, program, or other similar material that includes or bears the discontinued Native American name, symbol, or image; and

(d) The school does not purchase, construct, or acquire a marquee, sign, or other new or replacement fixture that includes or bears the discontinued Native American name, symbol, or image.

(4) A public school that does not meet the geographic requirements in subsection (2) of this section is exempt from subsection (1) of this section if:

(a) The school is located in a county that is adjacent to a county that contains all or part of a tribal reservation or tribal trust lands; and

(b) The tribe that is consulted with and determines to authorize the use of the name, symbol, or image as a school mascot, logo, or team name as provided in subsection (2) of this section is the nearest federally recognized Indian tribe.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.320 RCW to read as follows:

(1) The office of the superintendent of public instruction shall create a grant program to provide transitional support grants to school districts to support schools that incur costs as a result of compliance with section 2 of this act.

(2) Costs eligible for use by grants provided under this section are costs resulting from the replacement or redesign of items and materials that display Native American names, symbols, or images, including, but not limited to:

- (a) Uniforms and equipment used by a team, band, cheer squad, or other extracurricular activity;
- (b) School signage, including reader boards and score boards;
- (c) Floor designs in gymnasiums or other flooring or surfaces;
- (d) School letterhead and other office supplies;
- (e) School spirit store supplies and items; and
- (f) School web pages.

(3) In administering grants under this section, the office of the superintendent of public instruction is encouraged to incentivize schools that use Native American names, symbols, or images as school mascots, logos, or team names to select a new mascot, logo, or team name by September 1, 2021.

(4) This section expires August 31, 2023.

NEW SECTION. Sec. 4. If specific funding for the purposes of section 3 of this act, referencing section 3 of this act by bill or chapter number and section number, is not provided by June 30, 2021, in the omnibus appropriations act, section 3 of this act is null and void.

Passed by the House April 12, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 129

[Substitute House Bill 1363]

K-12 WORKFORCE SECONDARY TRAUMATIC STRESS—MODEL POLICY AND PROCEDURE

AN ACT Relating to policies and resources to address secondary traumatic stress in the K-12 workforce; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 28A.400 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. (1)(a) The legislature acknowledges that secondary traumatic stress, also called compassion fatigue, is a natural but disruptive set of symptoms that may result when one person learns firsthand of the traumatic experiences of another. Symptoms of secondary traumatic stress may include feelings of isolation, anxiety, dissociation, physical ailments, and sleep disturbances. In addition, those affected by secondary traumatic stress may experience: Changes in memory and perception; alterations in their sense of self-efficacy; a depletion of personal resources; and disruption in their perceptions of safety, trust, and independence.

(b) Secondary traumatic stress may be experienced by teachers, school counselors, administrators, or other school staff. Everyday these school staff work with students experiencing trauma and loss. In addition, many students

have experienced additional trauma due to the effects of the COVID-19 pandemic on themselves and their families.

(2) The legislature finds that secondary traumatic stress is preventable and treatable. Therefore, the legislature intends to require school districts to adopt a policy and procedure to prevent and address secondary traumatic stress in the workforce and to make resources on secondary traumatic stress publicly available.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.300 RCW to read as follows:

The office of the superintendent of public instruction must publish on its website links to resources, self-assessments, and best practices for educators and local policymakers to prevent and address secondary traumatic stress in the workforce. The office of the superintendent of public instruction must collaborate with the Washington state school directors' association, the educational service districts, and the school employees' benefits board created in RCW 41.05.740 and provide links to any resources on secondary traumatic stress available through these organizations.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.400 RCW to read as follows:

(1) The Washington state school directors' association shall develop or revise, and periodically update, a model policy and procedure to prevent and address secondary traumatic stress in the workforce.

(2) The model policy and procedure must include the following elements:

(a) A commitment to support mental health in the workplace;

(b) Promotion of a positive workplace climate with a focus on diversity and inclusion;

(c) Establishment of a district-wide workforce mental health committee with the following functions:

(i) Share secondary traumatic stress, stress management, and other mental health resources and supports available through the office of the superintendent of public instruction, the educational service districts, and the school employees' benefits board created in RCW 41.05.740;

(ii) Share links to a secondary traumatic stress self-assessment tool and any associated resources; and

(iii) Report to the school district board of directors at least once per year with a summary of committee activities;

(d) Regular assessment of district-level and school building-level implementation of the policy and procedures that includes input from the workforce; and

(e) Provision of appropriate resources and training to schools and staff for continuous improvement.

(3) The model policy and procedure developed under this section must be posted publicly on the Washington state school directors' association's website by August 1, 2021. Updates to the model policy and procedure must be posted publicly within a reasonable time of development.

(4) By the beginning of the 2021-22 school year, each school district must adopt, or amend if necessary, policies and procedures that, at a minimum, incorporate all the elements described in subsection (2) of this section. School

districts must periodically review their policies and procedures for consistency with updated versions of the model policy and procedure.

Passed by the House February 25, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 130

[Engrossed Substitute House Bill 1370]

EARLY LEARNING FACILITIES GRANT AND LOAN PROGRAM—EXPANSION

AN ACT Relating to early learning facilities; and amending RCW 43.31.577, 43.31.575, 43.31.569, 43.31.565, and 43.185.050.

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

Sec. 1. RCW 43.31.577 and 2017 3rd sp.s. c 12 s 8 are each amended to read as follows:

(1) Activities eligible for funding through the early learning facilities grant and loan program for eligible organizations include:

(a) Facility predesign grants or loans of no more than ~~((ten thousand dollars))~~ \$20,000 to allow eligible organizations to secure professional services or consult with organizations certified by the community development financial institutions fund to plan for and assess the feasibility of early learning facilities projects or receive other technical assistance to design and develop projects for construction funding;

(b) Grants or loans of no more than ~~((one hundred thousand dollars))~~ \$200,000 for minor renovations or repairs of existing early learning facilities or for predevelopment activities to advance a proposal from planning to major construction or renovation; ~~((and))~~

(c) Major construction and renovation grants or loans and grants or loans for facility purchases of no more than ~~((eight hundred thousand dollars))~~ \$1,000,000 to create or expand early learning facilities; and

(d) Administration costs associated with conducting application processes, managing contracts, and providing technical assistance.

(2) Activities eligible for funding through the early learning facilities grant and loan program for school districts include major construction, purchase, and renovation grants or loans of no more than ~~((eight hundred thousand dollars))~~ \$1,000,000 to create or expand early learning facilities that received priority and ranking as described in RCW 43.31.581.

(3) ~~((Beginning July 1, 2018, amounts))~~ Amounts in this section must be increased annually by the United States implicit price deflator for state and local government construction provided by the office of financial management.

Sec. 2. RCW 43.31.575 and 2018 c 58 s 18 are each amended to read as follows:

(1) Organizations eligible to receive funding from the early learning facilities grant and loan program include:

(a) Early childhood education and assistance program providers;

(b) Working connections child care providers who are eligible to receive state subsidies;

(c) Licensed early learning centers not currently participating in the early childhood education and assistance program, but intending to do so;

(d) Developers of housing and community facilities;

(e) Community and technical colleges;

(f) Educational service districts;

(g) Local governments;

(h) Federally recognized tribes in the state; and

(i) Religiously affiliated entities.

(2) To be eligible to receive funding from the early learning facilities grant and loan program for activities described in RCW 43.31.577 (1) (b) and (c) and (2), eligible organizations and school districts must:

(a) Commit to being an active participant in good standing with the early achievers program as defined by chapter 43.216 RCW; and

(b) Demonstrate that projects receiving construction, purchase, or renovation grants or loans (~~less than two hundred thousand dollars~~) must also:

(i) Demonstrate that the project site is under the applicant's control for a minimum of ten years, either through ownership or a long-term lease; and

(ii) Commit to using the facility funded by the grant or loan for the purposes of providing preschool or child care for a minimum of ten years(~~;~~

~~(c) Demonstrate that projects receiving construction, purchase, or renovation grants or loans of two hundred thousand dollars or more must also:~~

~~(i) Demonstrate that the project site is under the applicant's control for a minimum of twenty years, either through ownership or a long-term lease; and~~

~~(ii) Commit to using the facility funded by the grant or loan for the purposes of providing preschool or child care for a minimum of twenty years).~~

(3) To be eligible to receive funding from the early learning facilities grant and loan program for activities described in RCW 43.31.577 (1) (b) and (c) and (2), religiously affiliated entities must use the facility to provide child care and education services consistent with subsection (4)(a) of this section.

(4)(a) Upon receiving a grant or loan, the recipient must continue to be an active participant and in good standing with the early achievers program.

(b) If the recipient does not meet the conditions specified in (a) of this subsection, the grants shall be repaid to the early learning facilities revolving account or the early learning facilities development account, as directed by the department. So long as an eligible organization continues to provide an early learning program in the facility, the facility is used as authorized, and the eligible organization continues to be an active participant and in good standing with the early achievers program, the grant repayment is waived.

(c) The department, in consultation with the department of children, youth, and families, must adopt rules to implement this section.

Sec. 3. RCW 43.31.569 and 2017 3rd sp.s. c 12 s 4 are each amended to read as follows:

(1) The early learning facilities revolving account and the early learning facilities development account are created in the state treasury.

(2) Revenues to the early learning facilities revolving account shall consist of appropriations by the legislature, early learning facilities grant and loan repayments, taxable bond proceeds, and all other sources deposited in the account.

(3) Revenues to the early learning facilities development account shall consist of tax exempt bond proceeds.

(4) Expenditures from the accounts shall be used, in combination with other private and public funding, for state matching funds for the planning, renovation, purchase, and construction of early learning facilities as established in RCW 43.31.573 through 43.31.583 and 43.84.092.

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

(6) The early learning facilities revolving account shall be known as the Ruth LeCocq Kagi early learning facilities revolving account.

(7) The early learning facilities development account shall be known as the Ruth LeCocq Kagi early learning facilities development account.

Sec. 4. RCW 43.31.565 and 2017 3rd sp.s. c 12 s 3 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout (~~(chapter 12, Laws of 2017 3rd sp. sess.)~~) RCW 43.31.567 through 43.31.583:

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

(2) "Director" means the director of commerce.

(3) "Early learning facility" means a facility providing regularly scheduled care for a group of children one month of age through twelve years of age for periods of less than twenty-four hours.

Sec. 5. RCW 43.185.050 and 2018 c 223 s 4 are each amended to read as follows:

(1) The department must use moneys from the housing trust fund and other legislative appropriations to finance in whole or in part any loans or grant projects that will provide housing for persons and families with special housing needs and with incomes at or below fifty percent of the median family income for the county or standard metropolitan statistical area where the project is located. At least thirty percent of these moneys used in any given funding cycle must be for the benefit of projects located in rural areas of the state as defined by the department. If the department determines that it has not received an adequate number of suitable applications for rural projects during any given funding cycle, the department may allocate unused moneys for projects in nonrural areas of the state.

(2) Activities eligible for assistance from the housing trust fund and other legislative appropriations include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of low and very low-income housing units;

(b) Rent subsidies;

(c) Matching funds for social services directly related to providing housing for special-need tenants in assisted projects;

(d) Technical assistance, design and finance services and consultation, and administrative costs for eligible nonprofit community or neighborhood-based organizations;

(e) Administrative costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's access to housing funds other than those available under this chapter;

(f) Shelters and related services for the homeless, including emergency shelters and overnight youth shelters;

(g) Mortgage subsidies, including temporary rental and mortgage payment subsidies to prevent homelessness;

(h) Mortgage insurance guarantee or payments for eligible projects;

(i) Down payment or closing cost assistance for eligible first-time home buyers;

(j) Acquisition of housing units for the purpose of preservation as low-income or very low-income housing;

(k) Projects making housing more accessible to families with members who have disabilities; and

(l) Remodeling and improvements as required to meet building code, licensing requirements, or legal operations to residential properties owned and operated by an entity eligible under RCW 43.185A.040, which were transferred as described in RCW 82.45.010(3)(t) by the parent of a child with developmental disabilities.

(3) Preference must be given for projects that include an early learning facility, as defined in RCW 43.31.565.

(4) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2)(a), (i), and (j) of this section, and not for the administrative costs of the department.

(5) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of the housing assistance program except for activities authorized under subsection (2)(b) and (c) of this section.

(6) Administrative costs associated with application, distribution, and project development activities of the department may not exceed three percent of the annual funds available for the housing assistance program. Reappropriations must not be included in the calculation of the annual funds available for determining the administrative costs.

(7) Administrative costs associated with compliance and monitoring activities of the department may not exceed one-quarter of one percent annually of the contracted amount of state investment in the housing assistance program.

Passed by the House March 8, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 131

[Substitute House Bill 1379]

UNPILOTED AIRCRAFT SYSTEMS

AN ACT Relating to establishing an unpiloted aircraft system state coordinator and program funding source; amending RCW 47.68.250, 47.68.250, and 47.68.020; adding a new section to chapter 47.68 RCW; providing effective dates; providing an expiration date; and declaring an emergency.

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

NEW SECTION, Sec. 1. A new section is added to chapter 47.68 RCW to read as follows:

(1) Within amounts collected from commercial unpiloted aircraft registration fees pursuant to RCW 47.68.250(1), the aviation division director (also known as the senior state aviation official) or the aviation division director's designee shall act as the unpiloted aircraft system coordinator. The unpiloted aircraft system coordinator serves primarily in an advisory role and is not authorized to direct unpiloted aircraft system operations, training, or policy outside the department. The duties of the unpiloted aircraft system coordinator include:

(a) Assisting with unpiloted aircraft system training and continuing education for state agencies;

(b) Coordinating with local governments on state and federal unpiloted aircraft system policies and regulations;

(c) Acting as a state level coordinator for unpiloted aircraft system operations during a governor declaration of emergency pursuant to RCW 43.06.210;

(d) Coordinating with the federal aviation administration and state agencies on unpiloted aircraft system trends;

(e) Identifying and disseminating information on unpiloted aircraft system training sites;

(f) Establishing and maintaining an unpiloted aircraft system coordination website for state and local governments;

(g) Assisting with the advancement of unpiloted aircraft systems across the state in coordination with the department of commerce, the aerospace industry, and the commercial unmanned aircraft systems industry;

(h) Acting as the principal advisor to the secretary on unpiloted aircraft system matters;

(i) Undertaking other unpiloted aircraft system coordination duties that are deemed appropriate by the aviation division director and the unpiloted aircraft system coordinator including, but not limited to, overseeing unpiloted aircraft system symposiums or other events for state agencies and other stakeholder groups.

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

(3) By December 1, 2022, the department shall provide a report to the transportation committees of the legislature and the department of commerce that provides details on the specific activities, accomplishments, and opportunities undertaken by the unpiloted aircraft system coordinator as to each of the duties provided in this section. The report must also be shared with interested aviation and aerospace industry stakeholders. The report shall include:

(a) Information on the specific activities, accomplishments, and opportunities taken by the aviation division director or the director's designee in their role as the unpiloted aircraft system coordinator;

(b) A statement on the justification and need for the aviation division director or the director's designee to continue to perform the specific activities of the unpiloted aircraft system coordinator; and

(c) Recommendations on any changes to the scope of the work and duties of the unpiloted aircraft system coordinator. This shall include recommendations on the reassignment of duties of the unpiloted aircraft system coordinator to the department's aviation division and recommendations on the termination of the unpiloted aircraft system coordinator position.

Sec. 2. RCW 47.68.250 and 2020 c 304 s 3 are each amended to read as follows:

(1) Every aircraft, inclusive of commercial unpiloted aircraft systems, 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) The department must review the fee schedule based on the number of unpiloted aircraft systems registered under any single entity. Consideration should be given to the cost to administer the program and the number of commercial aircraft registered in the state. The department shall collaborate with the department of commerce, the department of revenue, and industry representatives in determining any recommendations to revise the initial fee. The report is due to the transportation committees of the legislature by December 1, 2022.

(3) 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))~~ (4) 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 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))~~ (5) 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))~~ (6) 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))~~) (6)(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))~~) (6)(c)(ii) and that written statements conform with the provisions of chapter 5.50 RCW;

(d) (~~(An)~~) A piloted 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; and

(h) Unpiloted aircraft systems used exclusively for hobby or recreation.

~~((6))~~ (7) 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))~~ (8) 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))~~ (9) 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.

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

Sec. 3. RCW 47.68.250 and 2019 c 232 s 23 are each amended to read as follows:

(1) Every aircraft, inclusive of commercial unpiloted aircraft systems, 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) The department must review the fee schedule based on the number of unpiloted aircraft systems registered under any single entity. Consideration should be given to the cost to administer the program and the number of commercial aircraft registered in the state. The department shall collaborate with the department of commerce, the department of revenue, and industry representatives in determining any recommendations to revise the initial fee. The report is due to the transportation committees of the legislature by December 1, 2022.

(3) 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))~~ (4) 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))~~ (5) 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))~~ (6) 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))~~ (6)(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))~~ (6)(c)(ii) and that written statements conform with the provisions of chapter 5.50 RCW;

(d) ~~((A))~~ A piloted 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; and

(h) Unpiloted aircraft systems used exclusively for hobby or recreation.

~~((6))~~ (7) 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))~~ (8) 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))~~ (9) 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.

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

Sec. 4. RCW 47.68.020 and 1993 c 208 s 4 are each amended to read as follows:

As used in this chapter, unless the context clearly indicates otherwise:

(1) "Aeronautics" means the science and art of flight and including, but not limited to, transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

(2) "Aircraft" means ~~((any))~~ a piloted or unmanned contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

(3) "Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or right-of-way, together with all airport buildings and facilities located thereon.

(4) "Department" means the state department of transportation.

(5) "Secretary" means the state secretary of transportation.

(6) "State" or "this state" means the state of Washington.

(7) "Air navigation facility" means any facility, other than one owned or operated by the United States, used in, available for use in, or designed for use in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(8) "Operation of aircraft" or "operate aircraft" means the use, navigation, or piloting of aircraft in the airspace over this state or upon any airport within this state.

(9) "Airman or airwoman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew in the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, airframes, propellers, or appliances, and any individual who serves in the capacity of aircraft dispatcher or air-traffic control tower operator; but does not include any individual employed outside the United States, or any individual employed by a manufacturer of aircraft, aircraft engines, airframes, propellers, or appliances to perform duties as inspector or mechanic in connection therewith, or any individual performing inspection or mechanical duties in connection with aircraft owned or operated by the person.

(10) "Aeronautics instructor" means any individual who for hire or reward engages in giving instruction or offering to give instruction in flying or ground

subjects pertaining to aeronautics, but excludes any instructor in a public school, university, or institution of higher learning duly accredited and approved for carrying on collegiate work, who instructs in flying or ground subjects pertaining to aeronautics, while in the performance of his or her duties at such school, university, or institution.

(11) "Air school" means any person who advertises, represents, or holds out as giving or offering to give instruction in flying or ground subjects pertaining to aeronautics whether for or without hire or reward; but excludes any public school, university, or institution of higher learning duly accredited and approved for carrying on collegiate work.

(12) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(13) "Municipal" means pertaining to a municipality, and "municipality" means any county, city, town, authority, district, or other political subdivision or public corporation of this state.

(14) "Airport hazard" means any structure, object of natural growth, or use of land, which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.

(15) "State airway" means a route in the navigable airspace over and above the lands or waters of this state, designated by the department as a route suitable for air navigation.

(16) "Aviation division" means the aeronautics division of the department.

(17) "Commercial" means an aircraft, piloted or unpiloted, not used exclusively for hobby or recreation.

(18) "Unpiloted aircraft system" means an aircraft operated without the possibility of direct human intervention from within or on the aircraft and is synonymous with the term "unmanned aircraft system". An unpiloted aircraft system must meet the same criteria and standards established by the federal aviation administration for an unmanned aircraft system.

NEW SECTION. Sec. 5. Section 2 of this act expires July 1, 2031.

NEW SECTION. Sec. 6. Section 3 of this act takes effect July 1, 2031.

NEW SECTION. Sec. 7. Except for section 3 of this act, 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, 2021.

Passed by the House April 12, 2021.

Passed by the Senate April 8, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 132

[Substitute House Bill 1423]

DEPARTMENT OF NATURAL RESOURCES BURNING PERMITS—CIVIL PENALTY

AN ACT Relating to smoke management civil enforcement; amending RCW 70A.15.3160 and 76.04.205; and prescribing penalties.

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

Sec. 1. RCW 70A.15.3160 and 2020 c 20 s 1112 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 70A.25 or 70A.450 RCW, RCW 70A.45.080 or 76.04.205, 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. Enforcement actions related to violations of RCW 76.04.205 must be consistent with the provisions of RCW 76.04.205.

(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 or the department of natural resources shall be paid into the state treasury and credited to the air pollution control account established in RCW 70A.15.1010 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) 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. 2. RCW 76.04.205 and 1986 c 100 s 17 are each amended to read as follows:

(1) Except in certain areas designated by the department or as permitted under rules adopted by the department, a person shall have a valid written burning permit obtained from the department to burn:

(a) Any flammable material on any lands under the protection of the department; or

(b) Refuse or waste forest material on forestlands protected by the department.

(2) To be valid a permit must be signed by both the department and the permittee. Conditions may be imposed in the permit for the protection of life, property, or air quality and (~~(the department)~~) the department may suspend or revoke the permits when conditions warrant. A permit shall be effective only under the conditions and for the period stated therein. Signing of the permit shall indicate the permittee's agreement to and acceptance of the conditions of the permit.

(3) The department may inspect or cause to be inspected the area involved and may issue a burning permit if:

(a) All requirements relating to firefighting equipment, the work to be done, and precautions to be taken before commencing the burning have been met;

(b) No unreasonable danger will result; and

(c) Burning will be done in compliance with air quality standards established by chapter (~~(70-94)~~) 70A.15 RCW.

(4) The department, authorized employees thereof, or any warden or ranger may refuse, revoke, or postpone the use of permits to burn when necessary for the safety of adjacent property or when necessary in their judgment to prevent air pollution as provided in chapter (~~(70-94)~~) 70A.15 RCW.

(5) Any person who violates this section, any permit issued under this section, any rules that implement this section, or the silvicultural burning provisions set forth in chapter 70A.15 RCW, may incur a civil penalty pursuant to RCW 70A.15.3160. The department shall adopt a rule that establishes: (a) A framework for resolving conflicts that may arise related to this section, including the issuance of civil penalties pursuant to RCW 70A.15.3160 for violations of this section; and (b) the method by which penalties issued pursuant to RCW 70A.15.3160 for violations of this section will be calculated. The department shall conduct a public process to solicit input on the development of the rule.

Passed by the House March 1, 2021.

Passed by the Senate April 11, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 133

[Substitute House Bill 1425]

COMMUNITY AND TECHNICAL COLLEGE SCHOLARSHIPS—ELIGIBILITY

AN ACT Relating to amending the opportunity scholarship act to expand scholarships for community and technical college students; amending RCW 28B.145.010 and 28B.145.100; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that higher education is pivotal in delivering training to Washington citizens at all stages of their careers and ages. A skilled workforce increases productivity, boosts outputs, and propels growth in Washington's economy. The legislature further finds that a well-trained, highly skilled workforce provides Washington citizens with greater opportunities and skill sets to efficiently and confidently meet the changing demands of a transforming economy. Furthermore, a STEM-based education provides Washington's citizens with real-world applications to develop a variety of skill sets needed in today's global economy.

The legislature further finds that the Washington state opportunity scholarship is an innovative public private partnership that has been successful building a qualified workforce to fill Washington's high-demand STEM, health care, and trade industries. The Washington state opportunity scholarship has successfully created opportunities for communities historically left out of higher education and STEM, including women, students of color, and first-generation college students. In addition, the Washington state opportunity scholarship has been shown to change communities by breaking the cycle of intergenerational poverty.

The legislature also finds that higher education is a key driver of individual growth and prosperity, and is an effective way to bridge societal inequities that disproportionately afflict low-income communities and communities of color. The legislature further finds that these gaps will be further widened in the current global pandemic, which will exacerbate long-term impacts on these communities in intergenerational poverty, job attainment, job stability, and wage growth.

Therefore, it is the intent of the legislature to amend the existing Washington state opportunity scholarship program to eliminate false barriers for students eligible for the scholarship and provide additional educational opportunities for Washington's citizens. This legislative intent is particularly urgent during the global pandemic where additional skills and opportunities will be vital for Washington citizens as the state moves toward recovery from the current global pandemic.

Sec. 2. RCW 28B.145.010 and 2019 c 406 s 63 are each amended to read as follows:

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

- (1) "Board" means the opportunity scholarship board.
- (2) "Council" means the student achievement council.
- (3) "Eligible advanced degree program" means a health professional degree program beyond the baccalaureate level and includes graduate and professional degree programs.

(4) "Eligible county" has the same meaning as "rural county" as defined in RCW 82.14.370 and also includes any county that shares a common border with Canada and has a population of over one hundred twenty-five thousand.

(5) "Eligible education programs" means high employer demand and other programs of study as determined by the board.

(6) "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 as determined by the program administrator in consultation with the council and the state board for community and technical colleges.

(7) "Eligible school district" means a school district of the second class as identified in RCW 28A.300.065(2).

(8) "Eligible student" means a resident student who (~~received his or her high school diploma or high school equivalency certificate as provided in RCW 28B.50.536 in Washington and who~~):

(a)(i) (~~Has~~) Received his or her high school diploma or high school equivalency certificate as provided in RCW 28B.50.536 in Washington and has been accepted at a four-year institution of higher education into an eligible education program leading to a baccalaureate degree;

(ii) (~~Will~~) Received his or her high school diploma or high school equivalency certificate as provided in RCW 28B.50.536 in Washington and will attend a two-year institution of higher education and intends to transfer to an eligible education program at a four-year institution of higher education;

(iii) (~~Has~~) Received his or her high school diploma or equivalent and has been accepted at an institution of higher education into a professional-technical certificate or degree program in an eligible education program; or

(iv) (~~Has been accepted at an institution of higher education into a professional technical certificate program in an eligible education program; or~~

(~~↔~~)) Has been accepted at an institution of higher education into an eligible advanced degree program that leads to credentials in health professions;

(b) Declares an intention to obtain a professional-technical certificate, professional-technical degree, baccalaureate degree, or an advanced degree; and

(c) Has a family income at or below one hundred twenty-five percent of the state median family income at the time the student applies for an opportunity scholarship.

(9) "Gift aid" means financial aid received from the federal Pell grant, the Washington college grant program in chapter 28B.92 RCW, the college bound scholarship program in chapter 28B.118 RCW, the opportunity grant program in chapter 28B.50 RCW, or any other state grant, scholarship, or worker retraining program that provides funds for educational purposes with no obligation of repayment. "Gift aid" does not include student loans, work-study programs, the basic food employment and training program administered by the department of social and health services, or other employment assistance programs that provide job readiness opportunities and support beyond the costs of tuition, books, and fees.

(10) "High employer demand program of study" has the same meaning as provided in RCW 28B.50.030.

(11) "Participant" means an eligible student who has received a scholarship under the opportunity scholarship program.

(12) "Private sources," "private funds," "private contributions," or "private sector contributions" means donations from private organizations, corporations, federally recognized Indian tribes, municipalities, counties, and other sources, but excludes state dollars.

(13) "Professional-technical certificate" means a program as approved by the state board for community and technical colleges under RCW 28B.50.090(7)(c), that is offered by an institution of higher education.

(14) "Professional-technical degree" means a program as approved by the state board for community and technical colleges under RCW 28B.50.090(7)(c), that is offered by an institution of higher education.

(15) "Program administrator" means a private nonprofit corporation registered under Title 24 RCW and qualified as a tax-exempt entity under section 501(c)(3) of the federal internal revenue code.

(16) "Resident student" has the same meaning as provided in RCW 28B.15.012.

(17) "Rural jobs program" means the rural county high employer demand jobs program created in this chapter.

Sec. 3. RCW 28B.145.100 and 2018 c 254 s 4 are each amended to read as follows:

(1)(a) The rural county high employer demand jobs program is created to meet the workforce needs of business and industry in rural counties by assisting students in earning certificates, associate degrees, or other industry-recognized credentials necessary for employment in high employer demand fields.

(b) Subject to the requirements of this section, the rural jobs program provides selected students scholarship funds and support services, as determined by the board, to help students meet their eligible expenses when they enroll in a community or technical college program that prepares them for high employer demand fields.

(c) The source of funds for the rural jobs program shall be a combination of private donations, grants, and contributions and state matching funds.

(2) The program administrator has the duties and responsibilities provided under this section, including but not limited to:

(a) (~~Publicizing~~) Publicize the rural jobs program and conducting outreach to eligible counties;

(b) In consultation with the state board for community and technical colleges, any interested community or technical college located in an eligible county, and the county's workforce development council, identify high employer demand fields within the eligible counties. When identifying high employer demand fields, the board must consider:

(i) County-specific employer demand reports issued by the employment security department or the list of statewide high-demand programs for secondary career and technical education established under RCW 28A.700.020; and

(ii) The ability and capacity of the community and technical college to meet the needs of qualifying students and industry in the eligible county;

(c) Develop and implement an application, selection, and notification process for awarding rural jobs program scholarship funds. In making determinations on scholarship recipients, the board shall use county-specific employer high-demand data;

(d) Determine the annual scholarship fund amounts to be awarded to selected students;

(e) Distribute funds to selected students;

(f) Notify institutions of higher education of the rural jobs program recipients who will attend their institutions of higher education and inform them of the scholarship fund amounts and terms of the awards; and

(g) Establish and manage an account as provided under RCW 28B.145.110 to receive donations, grants, contributions from private sources, and state matching funds, and from which to disburse scholarship funds to selected students.

(3) To be eligible for scholarship funds under the rural jobs program, a student must:

(a) Either:

(i) Be a resident of an eligible county and be enrolled in a community or technical college established under chapter 28B.50 RCW; or ((have))

(ii) Have attended and graduated from a school in an eligible school district and be enrolled in a community or technical college established under chapter 28B.50 RCW that is located in an eligible county;

(b) Be a resident student as defined in RCW 28B.15.012;

~~(c) ((Be enrolled in a community or technical college established under chapter 28B.50 RCW located in an eligible county;~~

~~(d))~~ Be in a certificate, degree, or other industry-recognized credential or training program that has been identified by the board as a program that prepares students for a high employer demand field;

~~((e))~~ (d) Have a family income that does not exceed seventy percent of the state median family income adjusted for family size; and

~~((f))~~ (e) Demonstrate financial need according to the free application for federal student aid or the Washington application for state financial aid.

(4) To remain eligible for scholarship funds under the rural jobs program, the student must maintain a cumulative grade point average of 2.0.

(5) A scholarship award under the rural jobs program may not result in a reduction of any gift aid. Nothing in this section creates any right or entitlement.

Passed by the House February 25, 2021.

Passed by the Senate April 19, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 134

[Substitute House Bill 1472]

STUDENT ACHIEVEMENT COUNCIL—STUDENT MEMBERS

AN ACT Relating to membership of the student achievement council; and amending RCW 28B.77.005.

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

Sec. 1. RCW 28B.77.005 and 2018 c 58 s 27 are each amended to read as follows:

(1) ~~((On July 1, 2012, the higher education coordinating board is abolished and the))~~ The student achievement council is created.

(2) The council is composed of ~~((nine))~~ 10 voting members as provided in this subsection.

(a) ~~((Five))~~ Six citizen members shall be appointed by the governor with the consent of the senate. One of the citizen members shall be ~~((a))~~ an undergraduate student and one shall be a graduate student. The citizen members shall be selected based on their knowledge of or experience in higher education. In making appointments to the council, the governor shall give consideration to citizens representing labor, business, women, and racial and ethnic minorities, as well as geographic representation, to ensure that the council's membership reflects the state's diverse population. The citizen members shall serve for four-year terms except for each of the student members, who shall serve for ~~((one year))~~ two years; however, the terms of the initial members and the undergraduate and graduate student members shall be staggered.

(b) A representative of an independent nonprofit higher education institution as defined in RCW 28B.07.020~~((4))~~, selected by an association of independent nonprofit baccalaureate degree-granting institutions. The representative appointed under this subsection (2)(b) shall excuse himself or herself from voting on matters relating primarily to public institutions of higher education.

(c) Chosen for their recognized ability and innovative leadership experience in broad education policy and system design, a representative of each of the following shall be selected by the respective organizations, who shall serve at the pleasure of the appointing organizations:

(i) A representative of the four-year institutions of higher education as defined in RCW 28B.10.016, selected by the presidents of those institutions;

(ii) A representative of the state's community and technical college system, selected by the state board for community and technical colleges; and

(iii) A representative of the state's K-12 education system, selected by the superintendent of public instruction in consultation with the department of children, youth, and families and the state board of education. The representative appointed under this subsection (2)(c)(iii) shall excuse himself or herself from voting on matters relating primarily to institutions of higher education.

(3) The chair shall be selected by the council from among the citizen members appointed to the council. The chair shall serve a one-year term but may serve more than one term if selected to do so by the membership.

(4) The council may create advisory committees on an ad hoc basis for the purpose of obtaining input from students, faculty, and higher education experts and practitioners, citizens, business and industry, and labor, and for the purpose of informing their research, policy, and programmatic functions. Ad hoc advisory committees addressing secondary to postsecondary transitions and university and college admissions requirements must include K-12 sector representatives including teachers, school directors, principals, administrators, and others as the council may direct, in addition to higher education representatives. The council shall maintain a contact list of K-12 and higher education stakeholder organizations to provide notices to stakeholders regarding the purposes of ad hoc advisory committees, timelines for planned work, means for participation, and a statement of desired outcomes.

(5) Any vacancies on the council shall be filled in the same manner as the original appointments. Appointments to fill vacancies shall be only for such

terms as remain unexpired. Any vacancies among council members appointed by the governor shall be filled by the governor subject to confirmation by the senate and shall have full authority to act before the time the senate acts on their confirmation.

Passed by the House March 6, 2021.

Passed by the Senate April 11, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 135

[Substitute House Bill 1514]

RIDE SHARING AND COMMUTE TRIP REDUCTION—VARIOUS PROVISIONS

AN ACT Relating to transportation demand management; amending RCW 46.18.285, 46.74.010, 46.74.030, 82.04.355, 82.08.0287, 82.12.0282, 82.16.047, 82.44.015, and 82.70.010; creating a new section; and providing an effective date.

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

Sec. 1. RCW 46.18.285 and 2020 c 18 s 17 are each amended to read as follows:

(1) A registered owner who uses a passenger motor vehicle for ~~((commuter))~~ ride sharing or ride sharing for persons with special transportation needs, as defined in RCW 46.74.010, shall apply to the department, county auditor or other agent, or subagent appointed by the director for special ride share license plates. The registered owner must qualify for the tax exemptions provided in RCW 82.08.0287, 82.12.0282, or 82.44.015, and pay the special ride share license plate fee required under RCW 46.17.220(18) when the special ride share license plates are initially issued.

(2) The special ride share license plates:

(a) Must be of a distinguishing separate numerical series or design as defined by the department;

(b) Must be returned to the department when no longer in use or when the registered owner no longer qualifies for the tax exemptions provided in subsection (1) of this section; and

(c) Are not required to be renewed annually for motor vehicles described in RCW 46.16A.170.

(3) Special ride share license plates may be transferred from one motor vehicle to another motor vehicle as described in subsection (1) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

(4) Any person who knowingly makes a false statement of a material fact in the application for a special license plate under subsection (1) of this section is guilty of a gross misdemeanor.

Sec. 2. RCW 46.74.010 and 2014 c 97 s 501 are each amended to read as follows:

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

(1) ~~("Commuter ride sharing" means a car pool or van pool arrangement whereby one or more fixed groups not exceeding fifteen persons each including~~

the drivers, and (a) not fewer than five persons including the drivers, or (b) not fewer than four persons including the drivers where at least two of those persons are confined to wheelchairs when riding, are transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment, between their places of abode or termini near such places, and their places of employment or educational or other institutions, each group in a single daily round trip where the drivers are also on the way to or from their places of employment or educational or other institution.

~~(2) "Flexible commuter ride sharing" means a car pool or van pool arrangement whereby a group of at least two but not exceeding fifteen persons including the driver is transported in a passenger motor vehicle with a gross vehicle weight not exceeding ten thousand pounds, excluding special rider equipment, between their places of abode or termini near such places, and their places of employment or educational or other institutions, where the driver is also on the way to or from his or her place of employment or educational or other institution.~~

~~(3)) "Persons with special transportation needs" has the same meaning as provided in RCW 81.66.010.~~

((4)) (2) "Ride sharing" means a carpool or vanpool arrangement whereby one or more groups not exceeding 15 persons each including the drivers, and not fewer than three persons including the drivers are transported in a passenger motor vehicle with a gross vehicle weight not exceeding 10,000 pounds. "Ride sharing" does not include transportation provided in the normal course of business by entities that are subject to chapters 46.72A, 48.177, 81.66, 81.68, 81.70, and 81.72 RCW, or offer peer-to-peer car sharing. For purposes of this section, "peer-to-peer car sharing" means motor vehicle owners making their motor vehicles available for persons to rent for short periods of time.

(3) "Ride sharing for persons with special transportation needs" means an arrangement whereby a group of persons with special transportation needs, and their attendants, is transported by a public social service agency or a private, nonprofit transportation provider, as defined in RCW 81.66.010, serving persons with special needs, in a passenger motor vehicle as defined by the department to include small buses, cutaways, and modified vans not more than twenty-eight feet long((-PROVIDED, That the)). The driver need not be a person with special transportation needs.

~~((5)) (4) "Ride-sharing operator" means the person, entity, or concern, not necessarily the driver, responsible for the existence and continuance of ((commuter)) ride sharing((-flexible commuter ride sharing,)) or ride sharing for persons with special transportation needs. The term "ride-sharing operator" includes but is not limited to an employer, an employer's agent, an employer-organized association, a state agency, a county, a city, a public transportation benefit area, a public transportation agency, or any other political subdivision that owns or leases a ride-sharing vehicle.~~

~~((6)) (5) "Ride-sharing promotional activities" means those activities involved in forming a ((commuter)) ride-sharing arrangement ((or a flexible commuter ride-sharing arrangement,)) including, but not limited to, receiving information from existing and prospective ride-sharing participants, sharing that information with other existing and prospective ride-sharing participants,~~

matching those persons with other existing or prospective ride-sharing participants, and making assignments of persons to ride-sharing arrangements.

Sec. 3. RCW 46.74.030 and 1997 c 250 s 9 are each amended to read as follows:

The operator and the driver of a (~~(commuter)~~) ride-sharing vehicle (~~(or a flexible commuter ride-sharing vehicle)~~) shall be held to a reasonable and ordinary standard of care, and are not subject to ordinances or regulations which relate exclusively to the regulation of drivers or owners of motor vehicles operated for hire, or other common carriers or public transit carriers. No person, entity, or concern may, as a result of engaging in ride-sharing promotional activities, be liable for civil damages arising directly or indirectly (1) from the maintenance and operation of a (~~(commuter)~~) ride-sharing (~~(or flexible commuter ride-sharing)~~) vehicle; or (2) from an intentional act of another person who is participating or proposing to participate in a (~~(commuter)~~) ride-sharing (~~(or flexible commuter ride-sharing)~~) arrangement, unless the ride-sharing operator or promoter had prior, actual knowledge that the intentional act was likely to occur and had a reasonable ability to prevent the act from occurring.

NEW SECTION. Sec. 4. The department of transportation and the commute trip reduction board shall prepare a report regarding, and an update to, the statutes governing the commute trip reduction program, within existing resources. The department of transportation shall provide the transportation committees of the legislature with the report and update by October 1, 2021.

Sec. 5. RCW 82.04.355 and 1999 c 358 s 8 are each amended to read as follows:

This chapter does not apply to any funds received in the course of (~~(commuter)~~) ride sharing or ride sharing for persons with special transportation needs in accordance with RCW 46.74.010.

Sec. 6. RCW 82.08.0287 and 2020 c 20 s 1472 are each amended to read as follows:

(1) The tax imposed by this chapter does not apply to sales of passenger motor vehicles which are to be used primarily for (~~(commuter)~~) ride sharing or ride sharing for persons with special transportation needs, as defined in RCW 46.74.010, if the vehicles are used as ride-sharing vehicles for thirty-six consecutive months beginning from the date of purchase.

(2)(a) To qualify for the tax exemption, those passenger motor vehicles with (~~(five)~~) three or (~~(six)~~) more passengers, including the driver, used for (~~(commuter)~~) ride sharing, must be operated either within the state's eight largest counties that are required to develop commute trip reduction plans as directed by chapter 70A.15 RCW (~~(or)~~), in other counties, or cities and towns within those counties, that elect to adopt and implement a commute trip reduction plan, or in other counties where the vehicle is registered with or operated by a public transportation agency. Additionally at least one of the following conditions must apply: (~~(a)~~) (i) The vehicle must be operated by a public transportation agency for the benefit of the general public; or (~~(b)~~) (ii) the vehicle must be used by a major employer, as defined in RCW 70A.15.4010 as an element of its commute trip reduction program for their employees; or (~~(c)~~) (iii) the vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public

transportation agency (~~((serving the area where the employees live or work))~~). Individual employee owned and operated motor vehicles will require certification that the vehicle is registered with a major employer or a public transportation agency. Major employers who own and operate motor vehicles for their employees must certify that the (~~((commuter))~~) ride-sharing arrangement conforms to a carpool/vanpool element contained within their commute trip reduction program.

(b) Notwithstanding the ridership requirements under (a) of this subsection (2), unless the vehicle is operated by a public transportation agency, the vehicle must be used for ride sharing in the transport of at least five passengers.

Sec. 7. RCW 82.12.0282 and 2020 c 20 s 1477 are each amended to read as follows:

(1) The tax imposed by this chapter does not apply with respect to the use of passenger motor vehicles used primarily for (~~((commuter))~~) ride sharing or ride sharing for persons with special transportation needs, as defined in RCW 46.74.010, if the vehicles are used as ride-sharing vehicles for thirty-six consecutive months beginning with the date of first use.

(2)(a) To qualify for the tax exemption, those passenger motor vehicles with (~~((five))~~) three or (~~((six))~~) more passengers, including the driver, used for (~~((commuter))~~) ride sharing, must be operated either within the state's eight largest counties that are required to develop commute trip reduction plans as directed by chapter 70A.15 RCW (~~((or))~~), in other counties, or cities and towns within those counties, that elect to adopt and implement a commute trip reduction plan, or in other counties where the vehicle is registered with or operated by a public transportation agency. Additionally at least one of the following conditions must apply: (~~((and))~~) (i) The vehicle must be operated by a public transportation agency for the benefit of the general public; or (~~((or))~~) (ii) the vehicle must be used by a major employer, as defined in RCW 70A.15.4010 as an element of its commute trip reduction program for their employees; or (~~((or))~~) (iii) the vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency (~~((serving the area where the employees live or work))~~). Individual employee owned and operated motor vehicles will require certification that the vehicle is registered with a major employer or a public transportation agency. Major employers who own and operate motor vehicles for their employees must certify that the (~~((commuter))~~) ride-sharing arrangement conforms to a carpool/vanpool element contained within their commute trip reduction program.

(b) Notwithstanding the ridership requirements under (a) of this subsection (2), unless the vehicle is operated by a public transportation agency, the vehicle must be used for ride sharing in the transport of at least five passengers.

Sec. 8. RCW 82.16.047 and 1999 c 358 s 12 are each amended to read as follows:

This chapter does not apply to any funds received in the course of (~~((commuter))~~) ride sharing or ride sharing for persons with special transportation needs in accordance with RCW 46.74.010.

Sec. 9. RCW 82.44.015 and 2020 c 20 s 1488 are each amended to read as follows:

(1) Passenger motor vehicles used primarily for ~~((commuter))~~ ride sharing and ride sharing for persons with special transportation needs, as defined in RCW 46.74.010, are not subject to the motor vehicle excise tax authorized under this chapter if the vehicles are used as ride-sharing vehicles for thirty-six consecutive months beginning from the date of purchase.

(2) To qualify for the motor vehicle excise tax exemption for ~~((commuter))~~ ride-sharing vehicles, passenger motor vehicles must:

(a) Have a seating capacity of ~~((five))~~ three or ~~((six))~~ more passengers, including the driver;

(b) Be used for ~~((commuter))~~ ride sharing;

(c) Be operated either within:

(i) The state's eight largest counties that are required to develop commute trip reduction plans as directed by chapter 70A.15 RCW; ~~((or))~~

(ii) ~~((In other))~~ Other counties, or cities and towns within those counties, that elect to adopt and implement a commute trip reduction plan; or

(iii) Other counties, where the vehicle is registered with or operated by a public transportation agency; and

(d) Meet at least one of the following conditions:

(i) The vehicle must be operated by a public transportation agency for the benefit of the general public;

(ii) The vehicle must be used by a major employer, as defined in RCW 70A.15.4010 as an element of its commute trip reduction program for their employees; or

(iii) The vehicle must be owned and operated by individual employees and must be registered either with the employer as part of its commute trip reduction program or with a public transportation agency ~~((serving the area where the employees live or work))~~. Individual employee owned and operated motor vehicles will require certification that the vehicle is registered with a major employer or a public transportation agency. Major employers who own and operate motor vehicles for their employees must certify that the ~~((commuter))~~ ride-sharing arrangement conforms to a carpool/vanpool element contained within their commute trip reduction program.

(3) The registered owner of a passenger motor vehicle described in subsection (2) of this section:

(a) Shall notify the department upon the termination of the primary use of the vehicle in ~~((commuter))~~ ride sharing or ride sharing for persons with special transportation needs; and

(b) Is liable for the motor vehicle excise tax imposed under this chapter, prorated on the remaining months for which the vehicle is registered.

Sec. 10. RCW 82.70.010 and 2005 c 297 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter and RCW 70.94.996 unless the context clearly requires otherwise.

(1) "Public agency" means any county, city, or other local government agency or any state government agency, board, or commission.

(2) "Public transportation" means the same as "public transportation service" as defined in RCW 36.57A.010 and includes passenger services of the Washington state ferries.

(3) "Nonmotorized commuting" means commuting to and from the workplace by an employee by walking or running or by riding a bicycle or other device not powered by a motor.

(4) "Ride sharing" means the same as "~~((flexible commuter))~~ ride sharing" as defined in RCW 46.74.010, including ride sharing on Washington state ferries.

(5) "Car sharing" means a membership program intended to offer an alternative to car ownership under which persons or entities that become members are permitted to use vehicles from a fleet on an hourly basis.

(6) "Telework" means a program where work functions that are normally performed at a traditional workplace are instead performed by an employee at his or her home at least one day a week for the purpose of reducing the number of trips to the employee's workplace.

(7) "Applicant" means a person applying for a tax credit under this chapter.

NEW SECTION. Sec. 11. This act takes effect September 1, 2021.

Passed by the House April 13, 2021.

Passed by the Senate April 8, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 136

[Engrossed Substitute House Bill 1529]

STATE ROUTE NUMBER 520 CIVIL PENALTIES ACCOUNT—USE FOR DEBT SERVICE

AN ACT Relating to modifying requirements in order to pay for debt service obligations when toll revenues are not sufficient to cover legal obligations; amending RCW 47.56.876; and declaring an emergency.

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

Sec. 1. RCW 47.56.876 and 2019 c 416 s 710 are each amended to read as follows:

(1) A special account to be known as the state route number 520 civil penalties account is created in the state treasury. All state route number 520 bridge replacement and HOV program civil penalties generated from the nonpayment of tolls on the state route number 520 corridor must be deposited into the account, as provided under RCW 47.56.870(4)(b)(vii). Moneys in the account may be spent only after appropriation. Expenditures from the account ~~((may))~~ must be used to fund legal obligations associated with bonds and loans associated with the construction and operation of state route number 520 under circumstances where the toll revenue collections at the time are not sufficient to fully cover such legal obligations, and then may be used to fund any project within the state route number 520 bridge replacement and HOV program, including mitigation. During the 2013-2015 and 2015-2017 fiscal biennia, the legislature may transfer from the state route number 520 civil penalties account to the state route number 520 corridor account such amounts as reflect the excess fund balance of the state route number 520 civil penalties account. Funds transferred must be used solely for capital expenditures for the state route number 520 bridge replacement and HOV project. ~~((During the 2017-2019 and the 2019-2021 fiscal biennia, the))~~ The legislature may direct the state treasurer

to make transfers of moneys in the state route number 520 civil penalties account to the state route number 520 corridor account.

(2) For purposes of this section, "legal obligations associated with bonds and loans" includes, but is not limited to, debt service and all other activities necessary to comply with financial covenants associated with state route number 520, costs associated with the civil penalties program, and operation and maintenance costs.

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 March 2, 2021.

Passed by the Senate April 8, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 137

[Senate Bill 5019]

DOCUMENT RECORDING STANDARDS—COMMISSION

AN ACT Relating to the recording standards commission; amending RCW 65.24.010 and 65.24.040; adding a new section to chapter 65.24 RCW; creating a new section; and repealing RCW 65.24.900.

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

NEW SECTION. Sec. 1. The legislature recognizes the necessity to clarify existing law regarding the recording of documents with county recording departments and county auditors. Recording standards and practices vary from county to county, which creates confusion and liability. County recorders, real estate firms, title and escrow companies, and consumer groups need simplified and standardized recording standards and fees. It is the intent of the legislature that the secretary of state have the authority to create regulations for consistent recording of documents by county auditors.

Sec. 2. RCW 65.24.010 and 2008 c 57 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) "Document" means information that is:

(a) Inscribed on a tangible medium or that is stored in an electronic or other medium, and is retrievable in perceivable form; and

(b) Eligible to be recorded in the land records maintained by the recording officer.

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) "Electronic document" means a document that is received by the recording officer in an electronic form.

(4) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a document and executed or adopted by a person with the intent to sign the document.

(5) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government, or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(6) "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.

(7) "~~(E-recording)~~ Recording standards commission" means the body of stakeholders appointed by the secretary of state to review recording standards, including but not limited to electronic recording standards, and make recommendations to the secretary under RCW 65.24.040.

Sec. 3. RCW 65.24.040 and 2008 c 57 s 5 are each amended to read as follows:

(1) The office of the secretary of state shall create and appoint ~~((an e-recording))~~ a recording standards commission. The ~~((e-recording))~~ recording standards commission shall review recording standards, including electronic recording standards, and make recommendations to the secretary of state for rules necessary to implement this chapter. A majority of the commission must be county recorders or county auditors. The commission may include assessors, treasurers, land title company representatives, escrow agents, and mortgage brokers, the state archivist, county surveyors, and any other party the secretary of state deems appropriate. The term of the commissioners will be set by the secretary of state.

(2) To keep the standards and practices of recording officers in this state in harmony, and to promote harmony with the standards and practices of recording offices in other jurisdictions that enact ~~((this chapter))~~ similar legislation or policy and to keep the technology used by recording officers in this state compatible with technology used by recording offices in other jurisdictions that enact ~~((this chapter))~~ similar legislation or policy, the office of the secretary of state, under RCW 40.14.020, so far as is consistent with the purposes, policies, and provisions of this chapter, in adopting, amending, and repealing rules supporting recording standards shall consider:

~~((1))~~ (a) The standards and practices of other jurisdictions;

~~((2))~~ (b) The most recent standards adopted by national standard-setting bodies, such as the property records industry association;

~~((3))~~ (c) The views of interested persons and governmental officials and entities;

~~((4))~~ (d) The needs of counties of varying size, population, and resources;

~~((and~~ ~~((5))~~ (e) Standards requiring adequate information security protection to ensure that ~~((electronic))~~ documents are accurate, authentic, adequately preserved, and resistant to tampering;

(f) Standards requiring adequate information security protection to ensure that electronic documents are accurate, authentic, adequately preserved, and resistant to tampering;

(g) Standards for the certification of recorded documents including imaged paper documents and documents that are received by the recording officer in an electronic form; and

(h) Standards on the documentation and recording of boundary line adjustments for real property.

NEW SECTION. Sec. 4. A new section is added to chapter 65.24 RCW to read as follows:

(1) The secretary of state, as chief archivist, shall make reasonable rules in accordance with federal and state laws, to provide for the uniform recording of documents in cooperation with the commission established in this chapter.

(2) In addition to the rule-making authority granted otherwise by this section, the secretary of state may make rules governing the following:

- (a) Recording duties of county recorders and county auditors;
- (b) Recording standards for the creation of certified copies for use as evidence;
- (c) Recording standards for documents related to eminent domain;
- (d) Recording standards for documents related to community property;
- (e) Recording standards for documents related to unfit dwellings, buildings, and structures;
- (f) Recording standards for court summons served and court judgments;
- (g) Recording standards for documents related to military discharge;
- (h) Recording standards for documents related to boundaries and plats not otherwise under the rule-making authority of another state agency;
- (i) Recording standards for documents related to liens;
- (j) Recording standards for documents related to mortgages, deeds of trust, and real estate contracts;
- (k) Recording standards for documents related to the uniform commercial code;
- (l) Recording standards for documents related to real property and conveyances;
- (m) Standards to be used in recording, registration, and legal publication under this chapter;
- (n) Recording standards for documents related to cemetery property;
- (o) Standards for fee waivers including but not limited to documents for veterans, and support of dependent children;
- (p) Recording standards for documents related to mines, minerals, and petroleum;
- (q) Recording standards for documents related to public lands, including tidelands, and shorelines;
- (r) Recording standards for documents related to excise tax on real estate;
- (s) Recording standards for documents related to property tax;
- (t) Recording standards for documents prepared in foreign countries; and
- (u) Recording standards for documents not identified in (a) through (t) of this subsection.

NEW SECTION. Sec. 5. RCW 65.24.900 (Short title) and 2008 c 57 s 1 are each repealed.

Passed by the Senate March 8, 2021.

Passed by the House April 9, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 138

[Senate Bill 5048]

REINSURANCE AGREEMENTS—RECIPROCAL JURISDICTIONS

AN ACT Relating to reinsurance agreements; amending RCW 48.12.405, 48.12.435, and 48.12.445; and adding new sections to chapter 48.12 RCW.

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

Sec. 1. RCW 48.12.405 and 2015 c 63 s 2 are each amended to read as follows:

Credit for reinsurance is allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of RCW 48.12.410, 48.12.415, 48.12.420, 48.12.425, 48.12.430, section 2 of this act, or 48.12.435. Credit is allowed under RCW 48.12.410, 48.12.415, or 48.12.420 only as respects cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of ~~((an))~~ the alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit is allowed under RCW 48.12.420 or 48.12.425 only if the applicable requirements of RCW 48.12.440 have been satisfied.

NEW SECTION. Sec. 2. A new section is added to chapter 48.12 RCW to read as follows:

(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer that:

(a) Is located and licensed in a reciprocal jurisdiction;

(b) Has and maintains, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of its domiciliary jurisdiction, in an amount to be set forth in rule. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, minimum capital and surplus equivalents, net of liabilities, calculated according to the methodology applicable in its domiciliary jurisdiction, and a central fund containing a balance in amounts to be set forth in rule;

(c) Has and maintains, on an ongoing basis, a minimum solvency or capital ratio, as applicable, to be established in rule. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming insurer has its head office or is domiciled, as applicable, and is also licensed;

(d) Provides adequate assurance to the commissioner, in a form specified by the commissioner in rule, as follows:

(i) The assuming insurer must provide prompt written notice and explanation to the commissioner if it falls below the minimum requirements set forth in (b) or (c) of this subsection, or if any regulatory action is taken against it for serious noncompliance with applicable law;

(ii) The assuming insurer must consent in writing to the jurisdiction of the courts of this state and to the appointment of the commissioner as agent for service of process. The commissioner may require that consent for service of process be provided to the commissioner and included in each reinsurance

agreement. Nothing in this provision limits, or in any way alters, the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws;

(iii) The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained;

(iv) Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to one hundred percent of the assuming insurer's liabilities attributable to reinsurance ceded under that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate; and

(v) The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement which involves this state's ceding insurers, and agree to notify the ceding insurer and the commissioner and to provide security in an amount equal to one hundred percent of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. This security must be in a form consistent with RCW 48.12.430 and 48.12.460 and as specified by the commissioner in rule;

(e) Provides, if requested by the commissioner, on behalf of itself and any legal predecessors, documentation to the commissioner, as specified by the commissioner in rule;

(f) Maintains a practice of prompt payment of claims under reinsurance agreements, under criteria established in rule; and

(g) Requires its supervisory authority to confirm to the commissioner on an annual basis, as of the preceding December 31st or at the date otherwise statutorily reported to the reciprocal jurisdiction, that the assuming insurer is in compliance with (b) and (c) of this subsection.

(2) Nothing in subsection (1) of this section precludes an assuming insurer from providing the commissioner with information on a voluntary basis.

(3) The commissioner must create and publish a list of reciprocal jurisdictions.

(a) The commissioner's list must include any reciprocal jurisdiction as defined in subsection (9)(b)(i) and (ii) of this section, and consider any other reciprocal jurisdiction included on the list of reciprocal jurisdictions published through the national association of insurance commissioners' committee process. The commissioner may approve a jurisdiction that does not appear on the national association of insurance commissioners' list of reciprocal jurisdictions in accordance with the commissioner's rules.

(b) The commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, in accordance with the commissioner's rules, except that the commissioner shall not remove from the list a reciprocal jurisdiction as defined under subsection (9)(b)(i) and (ii) of this section. Upon removal of a reciprocal jurisdiction from this list, credit for reinsurance ceded to

an assuming insurer that is located in that jurisdiction shall be allowed if otherwise allowed under this chapter.

(4) The commissioner must create and publish a list of assuming insurers that have satisfied the conditions set forth in this section and to which cessions shall be granted credit. The commissioner may add a assuming insurer to the list if a national association of insurance commissioners' accredited jurisdiction has added the assuming insurer to a list of assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the commissioner required under subsection (1)(d) of this section and complies with any additional requirements that the commissioner adopts in rule, except to the extent that they conflict with an applicable covered agreement.

(5) If the commissioner determines that an assuming insurer no longer meets one or more of the requirements under this subsection, the commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this subsection in accordance with procedures adopted in rule.

(a) While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with RCW 48.12.460.

(b) If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into before the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the commissioner and consistent with the provisions of RCW 48.12.460.

(6) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities.

(7) This subsection does not limit or alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by this chapter.

(8)(a) Credit may be taken under this subsection only for reinsurance agreements entered into, amended, or renewed on or after the effective date of this section, and only with respect to losses incurred and reserves reported on or after the later of:

(i) The date on which the assuming insurer has met all eligibility requirements; and

(ii) The effective date of the new reinsurance agreement, amendment, or renewal.

(b) This subsection does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this subsection, as long as the reinsurance qualifies for credit under any other applicable provision of this chapter.

(c) Nothing in this section authorizes an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.

(d) Nothing in this section limits, or in any way alters, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

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

(a) "Covered agreement" is an agreement entered into under the Dodd-Frank wall street reform and consumer protection act, 31 U.S.C. Secs. 313 and 314, that is currently in effect or is in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this state or for allowing the ceding insurer to recognize credit for reinsurance.

(b) "Reciprocal jurisdiction" means a jurisdiction that is:

(i) Located outside the United States and is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and European Union, is a member state of the European Union;

(ii) Located within a United States jurisdiction that meets the requirements for accreditation under the national association of insurance commissioners' financial standards and accreditation program; or

(iii) A qualified jurisdiction, as determined by the commissioner under RCW 48.12.430(3), which is not otherwise described in (b)(i) or (ii) of this subsection and which meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified by the commissioner in rule.

Sec. 3. RCW 48.12.435 and 2015 c 63 s 8 are each amended to read as follows:

Credit is allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of RCW 48.12.410, 48.12.415, 48.12.420, 48.12.425, section 2 of this act, or 48.12.430, but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

Sec. 4. RCW 48.12.445 and 2015 c 63 s 10 are each amended to read as follows:

If the assuming insurer does not meet the requirements of RCW 48.12.410, 48.12.415, or 48.12.420, the credit permitted by RCW 48.12.425, section 2 of this act, or 48.12.430 must not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(1) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by RCW 48.12.425(3), or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee must comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.

(2) The assets must be distributed by and claims must be filed with and valued by the commissioner with regulatory oversight in accordance with the

laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

(3) If the commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof must be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

(4) The grantor must waive any right otherwise available to it under United States law that is inconsistent with this provision.

NEW SECTION. Sec. 5. A new section is added to chapter 48.12 RCW to read as follows:

(1) The commissioner may adopt rules applicable to reinsurance agreements as provided in this section.

(2) A rule adopted under this section may only apply to reinsurance relating to:

(a) Life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits;

(b) Universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;

(c) Variable annuities with guaranteed death or living benefits;

(d) Long-term care insurance policies; or

(e) Such other life and health insurance and annuity products as to which the national association of insurance commissioners adopts model regulatory requirements with respect to credit for reinsurance.

(3) A rule adopted under subsection (2)(a) or (b) of this section may apply to any treaty containing:

(a) Policies issued on or after January 1, 2015; and

(b) Policies issued before January 1, 2015, if risk pertaining to these policies is ceded in connection with the treaty, in whole or in part, on or after January 1, 2015.

(4) A rule adopted under this section may require the ceding insurer, in calculating the amounts or forms of security required to be held under rule, to use the valuation manual adopted by the national association of insurance commissioners under RCW 48.74.100(2)(a), including all amendments adopted by the national association of insurance commissioners and in effect on the date as of which the calculation is made, to the extent applicable.

(5) A rule adopted under this section shall not apply to cessions to an assuming insurer that:

(a) Meets the conditions set forth in section 2 of this act;

(b) Is certified under RCW 48.12.430 in this state; or

(c) Maintains at least two hundred fifty million dollars in capital and surplus when determined in accordance with the national association of insurance commissioners' accounting practices and procedures manual, including all amendments adopted by the national association of insurance commissioners as of the effective date of this section, excluding the impact of any permitted or prescribed practices, and:

(i) Is licensed in at least twenty-six states; or

(ii) Is either licensed or accredited in a total of at least thirty-five states and maintains licensure in at least ten states under this subsection (5)(c)(ii).

(6) The authority to adopt rules under this section does not limit the commissioner's general authority to adopt rules under RCW 48.12.480.

Passed by the Senate February 10, 2021.

Passed by the House April 9, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 139

[Engrossed Substitute Senate Bill 5119]

INCARCERATED INDIVIDUALS—UNEXPECTED FATALITY REVIEW

AN ACT Relating to individuals in custody; adding a new section to chapter 72.09 RCW; adding a new section to chapter 43.06C RCW; adding a new section to chapter 70.48 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 72.09 RCW to read as follows:

(1)(a) The department shall conduct an unexpected fatality review in any case in which the death of an incarcerated individual is unexpected, or any case identified by the office of the corrections ombuds for review.

(b) The department shall convene an unexpected fatality review team and determine the membership of the review team. The team shall comprise of individuals with appropriate expertise including, but not limited to, individuals whose professional expertise is pertinent to the dynamics of the case. The unexpected fatality review team shall include the office of the corrections ombuds or the ombuds' designee, and a representative from the department of health. The department shall ensure that the unexpected fatality review team is made up of individuals who had no previous involvement in the case.

(c) The primary purpose of the unexpected fatality review shall be the development of recommendations to the department and legislature regarding changes in practices or policies to prevent fatalities and strengthen safety and health protections for prisoners in the custody of the department.

(d) Upon conclusion of an unexpected fatality review required pursuant to this section, the department shall, within 120 days following the fatality, issue a report on the results of the review, unless an extension has been granted by the governor. Reports must be distributed to the appropriate committees of the legislature, and the department shall create a public website where all unexpected fatality review reports required under this section must be posted and maintained. An unexpected fatality review report completed pursuant to this section is subject to public disclosure and must be posted on the public website, except that confidential information may be redacted by the department consistent with the requirements of applicable state and federal laws.

(e) Within 10 days of completion of an unexpected fatality review under this section, the department shall develop an associated corrective action plan to implement any recommendations made by the review team in the unexpected fatality review report. Corrective action plans shall be implemented within 120 days, unless an extension has been granted by the governor. Corrective action plans are subject to public disclosure, and must be posted on the department's

website in accordance with (d) of this subsection, except that confidential information may be redacted by the department consistent with the requirements of applicable state and federal laws.

(f) The department shall develop and implement procedures to carry out the requirements of this section.

(2) In any review of an unexpected fatality, the department and the unexpected fatality review team shall have access to all records and files regarding the person or otherwise relevant to the review that have been produced or retained by the agency.

(3)(a) An unexpected fatality review completed pursuant to this section is subject to discovery in a civil or administrative proceeding, but may not be admitted into evidence or otherwise used in a civil or administrative proceeding except pursuant to this section.

(b) A department employee responsible for conducting an unexpected fatality review, or member of an unexpected fatality review team, may not be examined in a civil or administrative proceeding regarding: (i) The work of the unexpected fatality review team; (ii) the incident under review; (iii) his or her statements, deliberations, thoughts, analyses, or impressions relating to the work of the unexpected fatality review team or the incident under review; or (iv) the statements, deliberations, thoughts, analyses, or impressions of any other member of the unexpected fatality review team, or any person who provided information to the unexpected fatality review team relating to the work of the unexpected fatality review team or the incident under review.

(c) Documents prepared by or for an unexpected fatality review team are inadmissible and may not be used in a civil or administrative proceeding, except that any document that exists before its use or consideration in an unexpected fatality review, or that is created independently of such review, does not become inadmissible merely because it is reviewed or used by an unexpected fatality review team. A person is not unavailable as a witness merely because the person has been interviewed by, or has provided a statement for, an unexpected fatality review, but if the person is called as a witness, the person may not be examined regarding the person's interactions with the unexpected fatality review including, without limitation, whether the person was interviewed during such review, the questions that were asked during such review, and the answers that the person provided during such review. This section may not be construed as restricting the person from testifying fully in any proceeding regarding his or her knowledge of the incident under review.

(d) The restrictions set forth in this section do not apply in a licensing or disciplinary proceeding arising from an agency's effort to revoke or suspend the license of any licensed professional based in whole or in part upon allegations of wrongdoing in connection with an unexpected fatality reviewed by an unexpected fatality review team.

(4) For the purposes of this section:

(a) "Unexpected fatality review" means a review of any death that was not the result of a diagnosed or documented terminal illness or other debilitating or deteriorating illness or condition where the death was anticipated, and includes the death of any person under the jurisdiction of the department, regardless of where the death actually occurred. A review must include an analysis of the root cause or causes of the unexpected fatality, and an associated corrective action

plan for the department to address identified root causes and recommendations made by the unexpected fatality review team under this section.

(b) "Jurisdiction of the department" does not include persons on community custody under the supervision of the department.

NEW SECTION. Sec. 2. A new section is added to chapter 43.06C RCW to read as follows:

(1) The ombuds or the ombuds' designee shall serve as a member of the unexpected fatality review team convened under chapter 72.09 RCW.

(2) The department shall:

(a) Permit the ombuds or the ombuds' designee physical access to state institutions serving incarcerated individuals and state-licensed facilities or residences for the purposes of carrying out its duties under this chapter; and

(b) Upon the ombuds' request, grant the ombuds or the ombuds' designee the right to access, inspect, and copy all relevant information, records, or documents in the possession or control of the department that the ombuds considers necessary in an investigation.

(3) The office shall issue an annual report to the legislature on the status of the implementation of unexpected fatality review recommendations.

NEW SECTION. Sec. 3. A new section is added to chapter 70.48 RCW to read as follows:

(1)(a) A city or county department of corrections or chief law enforcement officer responsible for the operation of a jail shall conduct an unexpected fatality review in any case in which the death of an individual confined in the jail is unexpected.

(b) The city or county department of corrections or chief law enforcement officer shall convene an unexpected fatality review team and determine the membership of the review team. The team shall comprise of individuals with appropriate expertise including, but not limited to, individuals whose professional expertise is pertinent to the dynamics of the case. The city or county department of corrections or chief law enforcement officer shall ensure that the unexpected fatality review team is made up of individuals who had no previous involvement in the case.

(c) The primary purpose of the unexpected fatality review shall be the development of recommendations to the governing unit with primary responsibility for the operation of the jail and legislature regarding changes in practices or policies to prevent fatalities and strengthen safety and health protections for individuals in custody.

(d) Upon conclusion of an unexpected fatality review required pursuant to this section, the city or county department of corrections or chief law enforcement officer shall, within 120 days following the fatality, issue a report on the results of the review, unless an extension has been granted by the chief executive or, if appropriate, the county legislative authority of the governing unit with primary responsibility for the operation of the jail. Reports must be distributed to the governing unit with primary responsibility for the operation of the jail and appropriate committees of the legislature, and the department of health shall create a public website where all unexpected fatality review reports required under this section must be posted and maintained. An unexpected fatality review report completed pursuant to this section is subject to public

disclosure and must be posted on the department of health public website, except that confidential information may be redacted by the city or county department of corrections or chief law enforcement officer consistent with the requirements of applicable state and federal laws.

(e) The city or county department of corrections or chief law enforcement officer shall develop and implement procedures to carry out the requirements of this section.

(2) In any review of an unexpected fatality, the city or county department of corrections or chief law enforcement officer and the unexpected fatality review team shall have access to all records and files regarding the person or otherwise relevant to the review that have been produced or retained by the agency.

(3)(a) An unexpected fatality review completed pursuant to this section is subject to discovery in a civil or administrative proceeding, but may not be admitted into evidence or otherwise used in a civil or administrative proceeding except pursuant to this section.

(b) An employee of a city or county department of corrections or law enforcement employee responsible for conducting an unexpected fatality review, or member of an unexpected fatality review team, may not be examined in a civil or administrative proceeding regarding: (i) The work of the unexpected fatality review team; (ii) the incident under review; (iii) his or her statements, deliberations, thoughts, analyses, or impressions relating to the work of the unexpected fatality review team or the incident under review; or (iv) the statements, deliberations, thoughts, analyses, or impressions of any other member of the unexpected fatality review team, or any person who provided information to the unexpected fatality review team relating to the work of the unexpected fatality review team or the incident under review.

(c) Documents prepared by or for an unexpected fatality review team are inadmissible and may not be used in a civil or administrative proceeding, except that any document that exists before its use or consideration in an unexpected fatality review, or that is created independently of such review, does not become inadmissible merely because it is reviewed or used by an unexpected fatality review team. A person is not unavailable as a witness merely because the person has been interviewed by, or has provided a statement for, an unexpected fatality review, but if the person is called as a witness, the person may not be examined regarding the person's interactions with the unexpected fatality review including, without limitation, whether the person was interviewed during such review, the questions that were asked during such review, and the answers that the person provided during such review. This section may not be construed as restricting the person from testifying fully in any proceeding regarding his or her knowledge of the incident under review.

(d) The restrictions set forth in this section do not apply in a licensing or disciplinary proceeding arising from an agency's effort to revoke or suspend the license of any licensed professional based in whole or in part upon allegations of wrongdoing in connection with an unexpected fatality reviewed by an unexpected fatality review team.

(4) No provision of this section may be interpreted to require a jail to disclose any information in a report that would, as determined by the jail, reveal security information about the jail.

(5) For the purposes of this section:

(a) "City or county department of corrections" means a department of corrections created by a city or county to be in charge of the jail and all persons confined in the jail pursuant to RCW 70.48.090.

(b) "Chief law enforcement officer" means the chief law enforcement officer who is in charge of the jail and all persons confined in the jail if no department of corrections was created by a city or county pursuant to RCW 70.48.090.

(c) "Unexpected fatality review" means a review of any death that was not the result of a diagnosed or documented terminal illness or other debilitating or deteriorating illness or condition where the death was anticipated, and includes the death of any person under the care and custody of the city or county department of corrections or chief local enforcement officer, regardless of where the death actually occurred. A review must include an analysis of the root cause or causes of the unexpected fatality, and an associated corrective action plan for the jail to address identified root causes and recommendations made by the unexpected fatality review team under this section.

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, 2021, in the omnibus appropriations act, this act is null and void.

Passed by the Senate February 25, 2021.

Passed by the House April 7, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 140

[Senate Bill 5132]

TRUSTS AND ESTATES

AN ACT Relating to trusts and estates; amending RCW 11.02.005, 11.12.020, 11.12.040, 11.20.020, 11.20.070, 30B.24.005, 11.12.110, 11.12.120, 11.95.110, 11.95.120, 11.95.130, 11.95.140, 11.95.150, 11.97.010, 11.97.900, 11.40.140, 11.48.120, 11.48.130, 11.68.041, 11.68.050, 11.68.065, 11.68.070, 11.68.090, 11.68.095, 11.68.100, 11.68.110, 11.68.112, 11.68.114, 11.68.120, 11.96A.030, 11.96A.110, 11.96A.220, 11.96A.220, 11.96A.230, 11.98.900, 11.100.050, 11.104A.900, and 11.114.020; adding new sections to chapter 11.12 RCW; adding new sections to chapter 11.68 RCW; adding new chapters to Title 11 RCW; creating a new section; recodifying RCW 11.104A.901, 11.104A.907, 11.95.100, 11.95.110, 11.95.120, 11.95.130, 11.95.140, and 11.95.150; repealing RCW 11.104A.001, 11.104A.005, 11.104A.010, 11.104A.020, 11.104A.030, 11.104A.040, 11.104A.050, 11.104A.060, 11.104A.070, 11.104A.080, 11.104A.090, 11.104A.100, 11.104A.110, 11.104A.120, 11.104A.130, 11.104A.140, 11.104A.150, 11.104A.160, 11.104A.170, 11.104A.180, 11.104A.190, 11.104A.200, 11.104A.210, 11.104A.220, 11.104A.230, 11.104A.240, 11.104A.250, 11.104A.260, 11.104A.270, 11.104A.280, 11.104A.290, 11.104A.300, 11.104A.900, 11.104A.904, 11.104A.905, 11.104A.906, 11.95.010, 11.95.020, 11.95.030, 11.95.040, 11.95.060, 11.95.070, 11.95.160, and 11.95.900; providing effective dates; and providing an expiration date.

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

PART I

UNIFORM ELECTRONIC WILLS ACT

NEW SECTION. Sec. 1001. SHORT TITLE. Sections 1002 through 1011 of this act may be known and cited as the uniform electronic wills act.

NEW SECTION. Sec. 1002. DEFINITION. The definition in this section applies throughout sections 1001 through 1011 of this act unless the context clearly requires otherwise.

"Sign" means, with present intent to authenticate or adopt a record, to affix to or logically associate with the record an electronic symbol, an electronic sound, or process.

NEW SECTION. Sec. 1003. LAW APPLICABLE TO ELECTRONIC WILL; PRINCIPLES OF EQUITY. An electronic will is a will for all purposes of the law of this state. The law of this state applicable to wills and principles of equity apply to an electronic will, except as modified by sections 1001 through 1011 of this act.

NEW SECTION. Sec. 1004. CHOICE OF LAW REGARDING EXECUTION. A will executed electronically but not in compliance with section 1005(1) of this act is an electronic will under sections 1001 through 1011 of this act if executed in compliance with the law of the jurisdiction where the testator is:

- (1) Physically located when the will is signed; or
- (2) Domiciled or resides when the will is signed or when the testator dies.

NEW SECTION. Sec. 1005. EXECUTION OF ELECTRONIC WILL. (1) Subject to section 1006(4) of this act, an electronic will must be:

- (a) A record that is readable as text at the time of signing under (b) of this subsection;
- (b) Signed by:
 - (i) The testator; or
 - (ii) Another individual in the testator's name, in the testator's physical presence, and by the testator's direction; and
- (c) Signed in the physical or electronic presence of the testator and at the testator's direction or request by at least two competent witnesses after:
 - (i) The signing of the will under (b) of this subsection; or
 - (ii) The testator's acknowledgment of the signing of the will under (b) of this subsection or acknowledgment of the will.

(2) Intent of a testator that the record under subsection (1)(a) of this section be the testator's electronic will may be established by extrinsic evidence.

NEW SECTION. Sec. 1006. ELECTRONIC WILL ATTESTED AND MADE SELF-PROVING AT TIME OF EXECUTION. (1) An electronic will may be simultaneously executed, attested, and made self-proving if:

- (a) The affidavits of the attesting witnesses are affixed to or logically associated with the electronic will; and
 - (b) The qualified custodian maintains custody of the electronic will at all times following execution by the testator and witnesses.
- (2) The affidavits under subsection (1)(a) of this section must state such facts as the attesting witnesses would be required to testify to in court to prove such electronic will, and must be:

(a) Made before an officer authorized to administer oaths or, if fewer than two attesting witnesses are physically present in the same location as the testator at the time of signing under section 1005(1)(b) of this act, before an officer authorized under RCW 42.45.280; and

(b) Evidenced by the officer's certificate under official seal affixed to or logically associated with the electronic will.

(3)(a) If made before an officer authorized to administer oaths, the acknowledgment and affidavits under subsection (1) of this section must be in substantially the following form:

I, (name), the testator, and, being sworn, declare to the undersigned officer that I sign this instrument as my electronic will, I willingly sign it or willingly direct another individual to sign it for me, I execute it as my voluntary act for the purposes expressed in this instrument, and I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

..... (signature)

Testator

We, (name) and (name), witnesses, being sworn, declare to the undersigned officer that the testator signed this instrument as the testator's electronic will, that the testator willingly signed it or willingly directed another individual to sign for the testator, and that each of us, in the physical or electronic presence of the testator, signs this instrument as witness to the testator's signing, and to the best of our knowledge the testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

..... (signature)

Witness

..... (signature)

Witness

Certificate of officer:

State of

County of

Subscribed, sworn to, and acknowledged before me by (name), the testator, and subscribed and sworn to before me by (name) and (name), witnesses, this day of,

(Seal)

(Signed)

.....

(Capacity of officer)

(b) If made pursuant to chapter 5.50 RCW, the acknowledgment and affidavits under subsection (1) of this section must be in substantially the following form:

I, (name), the testator, declare under penalty of perjury under the law of Washington that the following is true and correct: That I sign this instrument as my electronic will, I willingly sign it or willingly direct another individual to sign it for me, I execute it as my voluntary act for the purposes expressed in this instrument, and I am 18 years of age or older, of sound mind, and under no constraint or undue influence.

..... (signature)

Testator

We, (name) and (name), witnesses, declare under penalty of perjury under the law of Washington that the following is true and correct: That the testator signed this instrument as the testator's electronic will, that the testator willingly signed it or willingly directed another individual to sign for the testator,

and that each of us, in the physical or electronic presence of the testator, signs this instrument as witness to the testator's signing, and to the best of our knowledge the testator is 18 years of age or older, of sound mind, and under no constraint or undue influence.

..... (signature)

Witness

..... (signature)

Witness

(4) A signature physically or electronically affixed to an affidavit that is affixed to or logically associated with an electronic will under sections 1001 through 1011 of this act is deemed a signature of the electronic will under section 1005(1) of this act.

NEW SECTION. Sec. 1007. QUALIFIED CUSTODIAN OF ELECTRONIC WILL. (1) The following may serve as a qualified custodian:

(a) Any suitable person over the age of 18 years, who is a resident of the state of Washington at the time the electronic will was signed;

(b) A trust company regularly organized under the laws of this state and national banks when authorized to do so;

(c) A nonprofit corporation, if the articles of incorporation or bylaws of that corporation permit the action and if the corporation is in compliance with all applicable provisions of Title 24 RCW;

(d) Any professional service corporations, professional limited liability companies, or limited liability partnerships, that are duly organized under the laws of this state and whose shareholders, members, or partners, respectively, are exclusively attorneys; and

(e) A will repository in the county in which the testator is domiciled.

(2) The following are disqualified to serve as a qualified custodian:

(a) Minors, persons of unsound mind, or persons who have been convicted of (i) any felony or (ii) any crime involving moral turpitude;

(b) An individual who is an heir, beneficiary, or otherwise has an interest in testator's estate; and

(c) Corporations, limited liability companies, limited liability partnerships, except as provided in subsection (1) of this section.

NEW SECTION. Sec. 1008. DUTY OF QUALIFIED CUSTODIAN OF ELECTRONIC WILL. (1) The qualified custodian of an electronic will shall, within 30 days after he or she receives knowledge of the death of the testator:

(a) Deliver said electronic will to the court having jurisdiction or to the person named in the electronic will as executor; and

(b) Make an affidavit before any person authorized to administer oaths, stating (i) the manner in which the qualified custodian received the electronic will; (ii) that the electronic will was at all times in the custody of the qualified custodian; and (iii) that the electronic will in the possession of the qualified custodian has not been altered in any way since the custodian received the electronic will. Such affidavit must be delivered with the electronic will to the court having jurisdiction or the person named as executor under the electronic will.

(2) Any person who willfully violates any of the provisions of this section is liable to any party aggrieved for the damages which may be sustained by such violation.

NEW SECTION. Sec. 1009. CERTIFICATION OF PAPER COPY. An individual may create a certified paper copy of an electronic will by affirming under penalty of perjury that a paper copy of the electronic will is a complete, true, and accurate copy of the electronic will. If the electronic will is made self-proving, the certified paper copy of the will must include the self-proving affidavits.

NEW SECTION. Sec. 1010. 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. 1011. TRANSITIONAL PROVISION. Sections 1001 through 1010 of this act apply to the electronic will of a decedent who dies on or after the effective date of this section.

Sec. 1012. RCW 11.02.005 and 2020 c 312 s 708 are each amended to read as follows:

When used in this title, unless otherwise required from the context:

(1) "Administrator" means a personal representative of the estate of a decedent and the term may be used in lieu of "personal representative" wherever required by context.

(2) "Codicil" means a will that modifies or partially revokes an existing earlier will. A codicil need not refer to or be attached to the earlier will.

(3) "Degree of kinship" means the degree of kinship as computed according to the rules of the civil law; that is, by counting upward from the intestate to the nearest common ancestor and then downward to the relative, the degree of kinship being the sum of these two counts.

(4) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(5) "Electronic presence" means the relationship of two or more individuals in different locations communicating in real time to the same extent as if the individuals were physically present in the same location.

(6) "Electronic will" means a will or codicil executed in compliance with sections 1001 through 1011 of this act.

(7) "Executor" means a personal representative of the estate of a decedent appointed by will and the term may be used in lieu of "personal representative" wherever required by context.

~~((5))~~ (8) "Guardian," "limited guardian," "conservator," or "limited conservator" means a personal representative of the person or estate of a person who has been placed under a guardianship under RCW 11.130.265 or who has been placed under a conservatorship under RCW 11.130.360 and the term may be used in lieu of "personal representative" wherever required by context.

~~((6))~~ (9) "Heirs" denotes those persons, including the surviving spouse or surviving domestic partner, who are entitled under the statutes of intestate succession to the real and personal property of a decedent on the decedent's death intestate.

~~((7))~~ (10) "Internal revenue code" means the United States internal revenue code of 1986, as amended or renumbered as of January 1, 2001.

~~((8))~~ (11) "Issue" means all the lineal descendants of an individual. An adopted individual is a lineal descendant of each of his or her adoptive parents and of all individuals with regard to which each adoptive parent is a lineal descendant. A child conceived prior to the death of a parent but born after the death of the deceased parent is considered to be the surviving issue of the deceased parent for purposes of this title.

~~((9))~~ (12) "Net estate" refers to the real and personal property of a decedent exclusive of homestead rights, exempt property, the family allowance and enforceable claims against, and debts of, the deceased or the estate.

~~((10))~~ (13) "Nonprobate asset" means those rights and interests of a person having beneficial ownership of an asset that pass on the person's death under a written instrument or arrangement other than the person's will. "Nonprobate asset" includes, but is not limited to, a right or interest passing under a joint tenancy with right of survivorship, joint bank account with right of survivorship, transfer on death deed, payable on death or trust bank account, transfer on death security or security account, deed or conveyance if possession has been postponed until the death of the person, trust of which the person is grantor and that becomes effective or irrevocable only upon the person's death, community property agreement, individual retirement account or bond, or note or other contract the payment or performance of which is affected by the death of the person. "Nonprobate asset" does not include: A payable-on-death provision of a life insurance policy, annuity, or other similar contract, or of an employee benefit plan; a right or interest passing by descent and distribution under chapter 11.04 RCW; a right or interest if, before death, the person has irrevocably transferred the right or interest, the person has waived the power to transfer it or, in the case of contractual arrangement, the person has waived the unilateral right to rescind or modify the arrangement; or a right or interest held by the person solely in a fiduciary capacity. For the definition of "nonprobate asset" relating to revocation of a provision for a former spouse upon dissolution of marriage or declaration of invalidity of marriage, RCW 11.07.010(5) applies. For the definition of "nonprobate asset" relating to testamentary disposition of nonprobate assets, see RCW 11.11.010(7).

~~((11))~~ (14) "Personal representative" includes executor, administrator, special administrator, and conservator or limited conservator and special representative.

~~((12))~~ (15) "Real estate" includes, except as otherwise specifically provided herein, all lands, tenements, and hereditaments, and all rights thereto, and all interest therein possessed and claimed in fee simple, or for the life of a third person.

~~((13))~~ (16) "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.

(17) "Representation" refers to a method of determining distribution in which the takers are in unequal degrees of kinship with respect to a decedent, and is accomplished as follows: After first determining who, of those entitled to share in the estate, are in the nearest degree of kinship, the estate is divided into equal shares, the number of shares being the sum of the number of persons who

survive the decedent who are in the nearest degree of kinship and the number of persons in the same degree of kinship who died before the decedent but who left issue surviving the decedent; each share of a deceased person in the nearest degree must be divided among those of the deceased person's issue who survive the decedent and have no ancestor then living who is in the line of relationship between them and the decedent, those more remote in degree taking together the share which their ancestor would have taken had he or she survived the decedent.

~~((14))~~ (18) References to "section 2033A" of the internal revenue code in wills, trust agreements, powers of appointment, beneficiary designations, and other instruments governed by or subject to this title are deemed to refer to the comparable or corresponding provisions of section 2057 of the internal revenue code, as added by section 6006(b) of the internal revenue service restructuring act of 1998 (H.R. 2676, P.L. 105-206); and references to the section 2033A "exclusion" are deemed to mean the section 2057 deduction.

~~((15))~~ (19) "Settlor" has the same meaning as provided for "trustor" in this section.

~~((16))~~ (20) "Special administrator" means a personal representative of the estate of a decedent appointed for limited purposes and the term may be used in lieu of "personal representative" wherever required by context.

~~((17))~~ (21) "Surviving spouse" or "surviving domestic partner" does not include an individual whose marriage to or state registered domestic partnership with the decedent has been terminated, dissolved, or invalidated unless, by virtue of a subsequent marriage or state registered domestic partnership, he or she is married to or in a domestic partnership with the decedent at the time of death. A decree of separation that does not terminate the status of spouses or domestic partners is not a dissolution or invalidation for purposes of this subsection.

~~((18))~~ (22) "Trustee" means an original, added, or successor trustee and includes the state, or any agency thereof, when it is acting as the trustee of a trust to which chapter 11.98 RCW applies.

~~((19))~~ (23) "Trustor" means a person, including a testator, who creates, or contributes property to, a trust.

~~((20))~~ (24) "Will" means an instrument validly executed as required by RCW 11.12.020 or sections 1001 through 1011 of this act.

Words that import the singular number may also be applied to the plural of persons and things.

Words importing the masculine gender only may be extended to females also.

Sec. 1013. RCW 11.12.020 and 1990 c 79 s 1 are each amended to read as follows:

(1) ~~(Every)~~ Except as provided in sections 1001 through 1011 of this act, every will shall be in writing signed by the testator or by some other person under the testator's direction in the testator's presence or electronic presence, and shall be attested by two or more competent witnesses, by subscribing their names to the will, or by signing an affidavit that complies with RCW 11.20.020(2), while in the presence or electronic presence of the testator and at the testator's direction or request: PROVIDED, That a last will and testament, executed in the mode prescribed by the law of the place where executed or of the testator's domicile, either at the time of the will's execution or at the time of the

testator's death, shall be deemed to be legally executed, and shall be of the same force and effect as if executed in the mode prescribed by the laws of this state. Any will executed by a testator and witnesses who are not in the same physical location but in the electronic presence of one another in accordance with this section may be executed, attested, or acknowledged in counterparts, which together shall be considered a single document.

(2) This section shall be applied to all wills, whenever executed, including those subject to pending probate proceedings.

Sec. 1014. RCW 11.12.040 and 1994 c 221 s 12 are each amended to read as follows:

(1) A will, or any part thereof, can be revoked:

(a) By a subsequent will that revokes, or partially revokes, the prior will expressly or by inconsistency; or

(b) By being burnt, torn, canceled, obliterated, ~~((or))~~ destroyed, or a physical act, with the intent and for the purpose of revoking the same, by the testator or by another person in the presence and by the direction of the testator. If such act is done by any person other than the testator, the direction of the testator and the facts of such injury or destruction must be proved by two witnesses.

(2) Revocation of a will in its entirety revokes its codicils, unless revocation of a codicil would be contrary to the testator's intent.

Sec. 1015. RCW 11.20.020 and 2010 c 8 s 2016 are each amended to read as follows:

(1) Applications for the probate of a will and for letters testamentary, or either, may be made to the judge of the court having jurisdiction and the court may immediately hear the proofs and either probate or reject such will as the testimony may justify. Upon such hearing the court shall make and cause to be entered a formal order, either establishing and probating such will, or refusing to establish and probate the same, and such order shall be conclusive except in the event of a contest of such will as hereinafter provided. All testimony in support of the will shall be reduced to writing, signed by the witnesses, and certified by the judge of the court. If the application for probate of a will does not request the appointment of a personal representative and the court enters an adjudication of testacy establishing such will no further administration shall be required except as commenced pursuant to RCW 11.28.330 or 11.28.340.

(2) In addition to the foregoing procedure for the proof of wills, any or all of the attesting witnesses to a will may, at the request of the testator or, after his or her decease, at the request of the executor or any person interested under it, make an affidavit before any person authorized to administer oaths, stating such facts as they would be required to testify to in court to prove such will, which affidavit may be written on the will or may be ~~((attached to))~~ affixed or logically associated with the will or ~~((to))~~ a photographic copy of the will or an electronic will. The sworn statement of any witness so taken shall be accepted by the court as if it had been taken before the court.

(3) An electronic will, the custody of which has not been maintained by a qualified custodian, must be treated as a lost or destroyed will under RCW 11.20.070.

Sec. 1016. RCW 11.20.070 and 1994 c 221 s 20 are each amended to read as follows:

(1) If a will has been lost or destroyed under circumstances such that the loss or destruction does not have the effect of revoking the will, or is an electronic will, custody of which has not been maintained by a qualified custodian, the court may take proof of the execution and validity of the will and establish it, notice to all persons interested having been first given. The proof must be reduced to writing and signed by any witnesses who have testified as to the execution and validity, and must be filed with the clerk of the court.

(2) The provisions of a lost or destroyed will, or an electronic will, custody of which has not been maintained by a qualified custodian, must be proved by clear, cogent, and convincing evidence, consisting at least in part of a witness to either its contents or the authenticity of a copy of the will.

(3) When a lost or destroyed will, or an electronic will, custody of which has not been maintained by a qualified custodian, is established under subsections (1) and (2) of this section, its provisions must be distinctly stated in the judgment establishing it, and the judgment must be recorded as wills are required to be recorded. A personal representative may be appointed by the court in the same manner as is herein provided with reference to original wills presented to the court for probate.

NEW SECTION. **Sec. 1017.** EFFECTIVE DATE. Sections 1001 through 1016 of this act take effect January 1, 2022.

NEW SECTION. **Sec. 1018.** CODIFICATION. Sections 1001 through 1011 of this act are each added to chapter 11.12 RCW.

PART II

UNIFORM FIDUCIARY INCOME AND PRINCIPAL ACT

ARTICLE 1

GENERAL PROVISIONS

NEW SECTION. **Sec. 2101.** SHORT TITLE. This chapter may be known and cited as the uniform fiduciary income and principal act.

NEW SECTION. **Sec. 2102.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Accounting period" means a calendar year, unless a fiduciary selects another period of 12 calendar months or approximately 12 calendar months. The term includes a part of a calendar year or another period of 12 calendar months or approximately 12 calendar months which begins when an income interest begins or ends when an income interest ends.

(2) "Asset-backed security" means a security that is serviced primarily by the cash flows of a discrete pool of fixed or revolving receivables or other financial assets that by their terms convert into cash within a finite time. The term includes rights or other assets that ensure the servicing or timely distribution of proceeds to the holder of the asset-backed security. The term does not include an asset to which section 2401, 2409, or 2414 of this act applies.

(3) "Beneficiary" includes:

(a) For a trust:

(i) A current beneficiary, including a current income beneficiary and a beneficiary that may receive only principal;

(ii) A remainder beneficiary; and

(iii) Any other successor beneficiary; and

(b) For an estate, an heir, legatee, and devisee.

(4) "Court" means the court in this state having jurisdiction relating to a trust or estate.

(5) "Current income beneficiary" means a beneficiary to which a fiduciary may distribute net income, whether or not the fiduciary also may distribute principal to the beneficiary.

(6) "Distribution" means a payment or transfer by a fiduciary to a beneficiary in the beneficiary's capacity as a beneficiary, made under the terms of the trust, without consideration other than the beneficiary's right to receive the payment or transfer under the terms of the trust. "Distribute," "distributed," and "distributee" have corresponding meanings.

(7) "Estate" means a decedent's estate. The term includes the property of the decedent as the estate is originally constituted and the property of the estate as it exists at any time during administration.

(8) "Fiduciary" includes a trustee, personal representative, and person acting under a delegation from a fiduciary. The term includes a person that holds property for a successor beneficiary whose interest may be affected by an allocation of receipts and expenditures between income and principal. If there are two or more cofiduciaries, the term includes all cofiduciaries acting under the terms of the trust and applicable law.

(9) "Income" means money or other property a fiduciary receives as current return from principal. The term includes a part of receipts from a sale, exchange, or liquidation of a principal asset, to the extent provided in article 4 of this chapter.

(10) "Income interest" means the right of a current income beneficiary to receive all or part of net income, whether the terms of the trust require the net income to be distributed or authorize the net income to be distributed in the fiduciary's discretion. The term includes the right of a current beneficiary to use property held by a fiduciary.

(11) "Independent person" means a person that is not:

(a) For a trust:

(i) A beneficiary that is a distributee or permissible distributee of trust income or principal or would be a distributee or permissible distributee of trust income or principal if either the trust or the interests of the distributees or permissible distributees of trust income or principal were terminated, assuming no power of appointment is exercised;

(ii) A settlor of the trust; or

(iii) An individual whose legal obligation to support a beneficiary may be satisfied by a distribution from the trust;

(b) For an estate, a beneficiary;

(c) A spouse, parent, brother, sister, or issue of an individual described in (a) or (b) of this subsection;

(d) A corporation, partnership, limited liability company, or other entity in which persons described in (a) through (c) of this subsection, in the aggregate, have voting control; or

(e) An employee of a person described in (a), (b), (c), or (d) of this subsection.

(12) "Mandatory income interest" means the right of a current income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute.

(13) "Net income" means the total allocations during an accounting period to income under the terms of a trust and this chapter minus the disbursements during the period, other than distributions, allocated to income under the terms of the trust and this chapter. To the extent the trust is a unitrust under article 3 of this chapter, the term means the unitrust amount determined under article 3 of this chapter. The term includes an adjustment from principal to income under section 2203 of this act. The term does not include an adjustment from income to principal under section 2203 of this act.

(14) "Person" means an individual, estate, trust, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(15) "Personal representative" means an executor, administrator, successor personal representative, special administrator, or person that performs substantially the same function with respect to an estate under the law governing the person's status.

(16) "Principal" means property held in trust for distribution to, production of income for, or use by a current or successor beneficiary.

(17) "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.

(18) "Settlor" means a person, including a testator, that creates or contributes property to a trust. If more than one person creates or contributes property to a trust, the term includes each person, to the extent of the trust property attributable to that person's contribution, except to the extent another person has the power to revoke or withdraw that portion.

(19) "Special tax benefit" means:

(a) Exclusion of a transfer to a trust from gifts described in 26 U.S.C. Sec. 2503(b) of the federal internal revenue code of 1986, as amended, as of the effective date of this section, because of the qualification of an income interest in the trust as a present interest in property;

(b) Status as a qualified subchapter S trust described in 26 U.S.C. Sec. 1361(d)(3) of the federal internal revenue code of 1986, as amended, as of the effective date of this section, at a time the trust holds stock of an S corporation described in 26 U.S.C. Sec. 1361(a)(1) of the federal internal revenue code of 1986, as amended, as of the effective date of this section;

(c) An estate or gift tax marital deduction for a transfer to a trust under 26 U.S.C. Sec. 2056 or 2523 of the federal internal revenue code of 1986, as amended, as of the effective date of this section, which depends or depended in whole or in part on the right of the settlor's spouse to receive the net income of the trust;

(d) Exemption in whole or in part of a trust from the federal generation-skipping transfer tax imposed by 26 U.S.C. Sec. 2601 of the federal internal revenue code of 1986, as amended, as of the effective date of this section,

because the trust was irrevocable on September 25, 1985, if there is any possibility that:

(i) A taxable distribution, as defined in 26 U.S.C. Sec. 2612(b) of the federal internal revenue code of 1986, as amended, as of the effective date of this section, could be made from the trust; or

(ii) A taxable termination, as defined in 26 U.S.C. Sec. 2612(a) of the federal internal revenue code of 1986, as amended, as of the effective date of this section, could occur with respect to the trust; or

(e) An inclusion ratio, as defined in 26 U.S.C. Sec. 2642(a) of the federal internal revenue code of 1986, as amended, as of the effective date of this section, of the trust which is less than one, if there is any possibility that:

(i) A taxable distribution, as defined in 26 U.S.C. Sec. 2612(b) of the federal internal revenue code of 1986, as amended, as of the effective date of this section, could be made from the trust; or

(ii) A taxable termination, as defined in 26 U.S.C. Sec. 2612(a) of the federal internal revenue code of 1986, as amended, as of the effective date of this section, could occur with respect to the trust.

(20) "Successive interest" means the interest of a successor beneficiary.

(21) "Successor beneficiary" means a person entitled to receive income or principal or to use property when an income interest or other current interest ends.

(22) "Terms of a trust" means:

(a) Except as otherwise provided in (b) of this subsection, the manifestation of the settlor's intent regarding a trust's provisions as:

(i) Expressed in the trust instrument; or

(ii) Established by other evidence that would be admissible in a judicial proceeding;

(b) The trust's provisions as established, determined, or amended by:

(i) A trustee or trust director in accordance with applicable law;

(ii) Court order; or

(iii) A nonjudicial settlement agreement under chapter 11.98A RCW; or

(c) For an estate, a will.

(23) "Trust":

(a) Includes:

(i) An express trust, private or charitable, with additions to the trust, wherever and however created; and

(ii) A trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust; and

(b) Does not include:

(i) A constructive trust;

(ii) A resulting trust, conservatorship, guardianship, multiparty account, custodial arrangement for a minor, business trust, voting trust, security arrangement, liquidation trust, or trust for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, retirement benefits, or employee benefits of any kind; or

(iii) An arrangement under which a person is a nominee, escrowee, or agent for another.

(24) "Trustee" means a person, other than a personal representative, that owns or holds property for the benefit of a beneficiary. The term includes an

original, additional, or successor trustee, whether or not appointed or confirmed by a court.

(25) "Will" means any testamentary instrument recognized by applicable law which makes a legally effective disposition of an individual's property, effective at the individual's death. The term includes a codicil or other amendment to a testamentary instrument.

NEW SECTION. Sec. 2103. SCOPE. Except as otherwise provided in the terms of a trust or this chapter, this chapter applies to a trust or estate.

NEW SECTION. Sec. 2104. GOVERNING LAW. (1) Except as otherwise provided in the terms of a trust or this chapter, this chapter applies when this state is the principal place of administration of a trust or estate, subject to the following rules:

(a) If the trust was created before January 1, 2022, this chapter applies only to a decision or action occurring on or after January 1, 2022; and

(b) If the principal place of administration of the trust is changed to this state on or after January 1, 2022, this chapter applies only to a decision or action occurring on or after the date of the change.

(2) Without precluding other means to establish a sufficient connection with the designated jurisdiction in a directed trust, terms of the trust which designate the principal place of administration of the trust are valid and controlling if:

(a) A trustee's principal place of business is located in or a trustee is a resident of the designated jurisdiction;

(b) A trust director's principal place of business is located in or a trust director is a resident of the designated jurisdiction; or

(c) All or part of the administration occurs in the designated jurisdiction.

(3) By accepting the trusteeship of a trust having its principal place of administration in this state or by moving the principal place of administration of a trust to this state, the trustee submits to the application of this chapter to any matter within the scope of this chapter involving the trust.

ARTICLE 2

FIDUCIARY DUTIES AND JUDICIAL REVIEW

NEW SECTION. Sec. 2201. FIDUCIARY DUTIES—GENERAL PRINCIPLES. (1) In making an allocation or determination or exercising discretion under this chapter, a fiduciary shall:

(a) Act in good faith, based on what is fair and reasonable to all beneficiaries;

(b) Administer a trust or estate impartially, except to the extent the terms of the trust manifest an intent that the fiduciary shall or may favor one or more beneficiaries;

(c) Administer the trust or estate in accordance with the terms of the trust, even if there is a different provision in this chapter; and

(d) Administer the trust or estate in accordance with this chapter, except to the extent the terms of the trust provide otherwise or authorize the fiduciary to determine otherwise.

(2) A fiduciary's allocation, determination, or exercise of discretion under this chapter is presumed to be fair and reasonable to all beneficiaries. A fiduciary may exercise a discretionary power of administration given to the fiduciary by the terms of the trust, and an exercise of the power which produces a result

different from a result required or permitted by this chapter does not create an inference that the fiduciary abused the fiduciary's discretion.

(3) A fiduciary shall:

(a) Add a receipt to principal, to the extent neither the terms of the trust nor this chapter allocates the receipt between income and principal; and

(b) Charge a disbursement to principal, to the extent neither the terms of the trust nor this chapter allocates the disbursement between income and principal.

(4) A fiduciary may exercise the power to adjust under section 2203 of this act, convert an income trust to a unitrust under section 2303(1)(a) of this act, change the percentage or method used to calculate a unitrust amount under section 2303(1)(b) of this act, or convert a unitrust to an income trust under section 2303(1)(c) of this act, if the fiduciary determines the exercise of the power is necessary to administer the trust or estate in accordance with the requirements of subsection (1) of this section.

(5) Factors the fiduciary must consider in making the determination under subsection (4) of this section include:

(a) The terms of the trust;

(b) The nature, distribution standards, and expected duration of the trust;

(c) The effect of the allocation rules, including specific adjustments between income and principal, under articles 4 through 7 of this chapter;

(d) The desirability of liquidity and regularity of income;

(e) The desirability of the preservation and appreciation of principal;

(f) The extent to which an asset is used or may be used by a beneficiary;

(g) The increase or decrease in the value of principal assets, reasonably determined by the fiduciary;

(h) Whether and to what extent the terms of the trust give the fiduciary power to accumulate income or invade principal or prohibit the fiduciary from accumulating income or invading principal;

(i) The extent to which the fiduciary has accumulated income or invaded principal in preceding accounting periods;

(j) The effect of current and reasonably expected economic conditions; and

(k) The reasonably expected tax consequences of the exercise of the power.

NEW SECTION. Sec. 2202. JUDICIAL REVIEW OF EXERCISE OF DISCRETIONARY POWER—REQUEST FOR INSTRUCTION. (1) In this section, "fiduciary decision" means:

(a) A fiduciary's allocation between income and principal or other determination regarding income and principal required or authorized by the terms of the trust or this chapter;

(b) The fiduciary's exercise or nonexercise of a discretionary power regarding income and principal granted by the terms of the trust or this chapter, including the power to adjust under section 2203 of this act, convert an income trust to a unitrust under section 2303(1)(a) of this act, change the percentage or method used to calculate a unitrust amount under section 2303(1)(b) of this act, or convert a unitrust to an income trust under section 2303(1)(c) of this act; or

(c) The fiduciary's implementation of a decision described in (a) or (b) of this subsection.

(2) The court may not order a fiduciary to change a fiduciary decision unless the court determines that the fiduciary decision was an abuse of the fiduciary's discretion.

(3) If the court determines that a fiduciary decision was an abuse of the fiduciary's discretion, the court may order a remedy authorized by law. To place the beneficiaries in the positions the beneficiaries would have occupied if there had not been an abuse of the fiduciary's discretion, the court may order:

(a) The fiduciary to exercise or refrain from exercising the power to adjust under section 2203 of this act;

(b) The fiduciary to exercise or refrain from exercising the power to convert an income trust to a unitrust under section 2303(1)(a) of this act, change the percentage or method used to calculate a unitrust amount under section 2303(1)(b) of this act, or convert a unitrust to an income trust under section 2303(1)(c) of this act;

(c) The fiduciary to distribute an amount to a beneficiary;

(d) A beneficiary to return some or all of a distribution; or

(e) The fiduciary to withhold an amount from one or more future distributions to a beneficiary.

(4) On petition by a fiduciary for instruction, the court may determine whether a proposed fiduciary decision will result in an abuse of the fiduciary's discretion. If the petition describes the proposed decision, contains sufficient information to inform the beneficiary of the reasons for making the proposed decision and the facts on which the fiduciary relies, and explains how the beneficiary will be affected by the proposed decision, a beneficiary that opposes the proposed decision has the burden to establish that it will result in an abuse of the fiduciary's discretion.

NEW SECTION. Sec. 2203. FIDUCIARY'S POWER TO ADJUST. (1) Except as otherwise provided in the terms of a trust or this section, a fiduciary, in a record, without court approval, may adjust between income and principal if the fiduciary determines the exercise of the power to adjust is necessary to administer the trust or estate in accordance with the requirements of section 2201(1) of this act.

(2) This section does not create a duty to exercise or consider the power to adjust under subsection (1) of this section or to inform a beneficiary about the applicability of this section.

(3) A fiduciary that in good faith exercises or fails to exercise the power to adjust under subsection (1) of this section is not liable to a person affected by the exercise or failure to exercise.

(4) In deciding whether and to what extent to exercise the power to adjust under subsection (1) of this section, a fiduciary shall consider all factors the fiduciary considers relevant, including relevant factors in section 2201(5) of this act and the application of sections 2401(9), 2408, and 2413 of this act.

(5) A fiduciary may not exercise the power under subsection (1) of this section to make an adjustment or under section 2408 of this act to make a determination that an allocation is insubstantial if:

(a) The adjustment or determination would reduce the amount payable to a current income beneficiary from a trust that qualifies for a special tax benefit, except to the extent the adjustment is made to provide for a reasonable apportionment of the total return of the trust between the current income beneficiary and successor beneficiaries;

(b) The adjustment or determination would change the amount payable to a beneficiary, as a fixed annuity or a fixed fraction of the value of the trust assets, under the terms of the trust;

(c) The adjustment or determination would reduce an amount that is permanently set aside for a charitable purpose under the terms of the trust, unless both income and principal are set aside for the charitable purpose;

(d) Possessing or exercising the power would cause a person to be treated as the owner of all or part of the trust for federal income tax purposes;

(e) Possessing or exercising the power would cause all or part of the value of the trust assets to be included in the gross estate of an individual for federal estate tax purposes;

(f) Possessing or exercising the power would cause an individual to be treated as making a gift for federal gift tax purposes;

(g) The fiduciary is not an independent person;

(h) The trust is irrevocable and provides for income to be paid to the settlor and possessing or exercising the power would cause the adjusted principal or income to be considered an available resource or available income under a public benefit program; or

(i) The trust is a unitrust under article 3 of this chapter.

(6) If subsection (5)(d), (e), (f), or (g) of this section applies to a fiduciary:

(a) A cofiduciary to which subsection (5)(d) through (g) of this section does not apply may exercise the power to adjust, unless the exercise of the power by the remaining cofiduciary or cofiduciaries is not permitted by the terms of the trust or law other than this chapter; or

(b) If there is no cofiduciary to which subsection (5)(d) through (g) of this section does not apply, the fiduciary may appoint a cofiduciary to which subsection (5)(d) through (g) of this section does not apply, which may be a special fiduciary with limited powers, and the appointed cofiduciary may exercise the power to adjust under subsection (1) of this section, unless the appointment of a cofiduciary or the exercise of the power by a cofiduciary is not permitted by the terms of the trust or law other than this chapter.

(7) A fiduciary may release or delegate to a cofiduciary the power to adjust under subsection (1) of this section if the fiduciary determines that the fiduciary's possession or exercise of the power will or may:

(a) Cause a result described in subsection (5)(a) through (f) or (h) of this section; or

(b) Deprive the trust of a tax benefit or impose a tax burden not described in subsection (5)(a) through (f) of this section.

(8) A fiduciary's release or delegation to a cofiduciary under subsection (7) of this section of the power to adjust under subsection (1) of this section:

(a) Must be in a record;

(b) Applies to the entire power, unless the release or delegation provides a limitation, which may be a limitation to the power to adjust:

(i) From income to principal;

(ii) From principal to income;

(iii) For specified property; or

(iv) In specified circumstances;

(c) For a delegation, may be modified by a redelegation under this subsection by the cofiduciary to which the delegation is made; and

(d) Subject to (c) of this subsection (8), is permanent, unless the release or delegation provides a specified period, including a period measured by the life of an individual or the lives of more than one individual.

(9) Terms of a trust which deny or limit the power to adjust between income and principal do not affect the application of this section, unless the terms of the trust expressly deny or limit the power to adjust under subsection (1) of this section.

(10) The exercise of the power to adjust under subsection (1) of this section in any accounting period may apply to the current period, the immediately preceding period, and one or more subsequent periods.

(11) A description of the exercise of the power to adjust under subsection (1) of this section must be:

(a) Included in a report, if any, sent to all beneficiaries; or

(b) Communicated at least annually to all beneficiaries that receive or are entitled to receive income from the trust or would be entitled to receive a distribution of principal if the trust were terminated at the time the notice is sent, assuming no power of appointment is exercised.

ARTICLE 3

UNITRUST

NEW SECTION. **Sec. 2301.** DEFINITIONS. The definitions in this section apply throughout this article unless the context clearly requires otherwise.

(1) "Applicable value" means the amount of the net fair market value of a trust taken into account under section 2307 of this act.

(2) "Express unitrust" means a trust for which, under the terms of the trust without regard to this article, income or net income must or may be calculated as a unitrust amount.

(3) "Income trust" means a trust that is not a unitrust.

(4) "Net fair market value of a trust" means the fair market value of the assets of the trust, less the noncontingent liabilities of the trust.

(5) "Unitrust" means a trust for which net income is a unitrust amount. The term includes an express unitrust.

(6) "Unitrust amount" means an amount computed by multiplying a determined value of a trust by a determined percentage. For a unitrust administered under a unitrust policy, the term means the applicable value, multiplied by the unitrust rate.

(7) "Unitrust policy" means a policy described in sections 2305 through 2309 of this act and adopted under section 2303 of this act.

(8) "Unitrust rate" means the rate used to compute the unitrust amount under subsection (6) of this section for a unitrust administered under a unitrust policy.

NEW SECTION. **Sec. 2302.** APPLICATION—DUTIES AND REMEDIES. (1) Except as otherwise provided in subsection (2) of this section, this article applies to:

(a) An income trust, unless the terms of the trust expressly prohibit use of this article by a specific reference to this article or an explicit expression of intent that net income not be calculated as a unitrust amount; and

(b) An express unitrust, except to the extent the terms of the trust explicitly:

(i) Prohibit use of this article by a specific reference to this article;

- (ii) Prohibit conversion to an income trust; or
- (iii) Limit changes to the method of calculating the unitrust amount.

(2) This article does not apply to a trust described in 26 U.S.C. Sec. 170(f)(2)(B), 642(c)(5), 664(d), or 2702 (a)(3)(A)(ii) or (iii) or (b), as amended, as of the effective date of this section.

(3) An income trust to which this article applies under subsection (1)(a) of this section may be converted to a unitrust under this article regardless of the terms of the trust concerning distributions. Conversion to a unitrust under this article does not affect other terms of the trust concerning distributions of income or principal.

(4) This article applies to an estate only to the extent a trust is a beneficiary of the estate. To the extent of the trust's interest in the estate, the estate may be administered as a unitrust, the administration of the estate as a unitrust may be discontinued, or the percentage or method used to calculate the unitrust amount may be changed, in the same manner as for a trust under this article.

(5) This article does not create a duty to take or consider action under this article or to inform a beneficiary about the applicability of this article.

(6) A fiduciary that in good faith takes or fails to take an action under this article is not liable to a person affected by the action or inaction.

NEW SECTION. Sec. 2303. AUTHORITY OF FIDUCIARY. (1) A fiduciary, without court approval, by complying with subsections (2) and (6) of this section, may:

(a) Convert an income trust to a unitrust if the fiduciary adopts in a record a unitrust policy for the trust providing:

(i) That in administering the trust the net income of the trust will be a unitrust amount rather than net income determined without regard to this article; and

(ii) The percentage and method used to calculate the unitrust amount;

(b) Change the percentage or method used to calculate a unitrust amount for a unitrust if the fiduciary adopts in a record a unitrust policy or an amendment or replacement of a unitrust policy providing changes in the percentage or method used to calculate the unitrust amount; or

(c) Convert a unitrust to an income trust if the fiduciary adopts in a record a determination that, in administering the trust, the net income of the trust will be net income determined without regard to this article rather than a unitrust amount.

(2) A fiduciary may take an action under subsection (1) of this section if:

(a) The fiduciary determines that the action will assist the fiduciary to administer a trust impartially;

(b) The fiduciary sends a notice in a record, in the manner required by section 2304 of this act, describing and proposing to take the action;

(c) The fiduciary sends a copy of the notice under (b) of this subsection (2) to each settlor of the trust which is:

(i) If an individual, living; or

(ii) If not an individual, in existence;

(d) At least one member of each class of beneficiaries receiving the notice under (b) of this subsection (2) is:

(i) If an individual, legally competent;

(ii) If not an individual, in existence; or

(iii) Represented in the manner provided in section 2304(2) of this act; and

(e) The fiduciary does not receive, by the date specified in the notice under section 2304(3)(f) of this act, an objection in a record to the action proposed under (b) of this subsection (2) from a person to which the notice under (b) of this subsection (2) is sent.

(3) If a fiduciary receives, not later than the date stated in the notice under section 2304(3)(e) of this act, an objection in a record described in section 2304(3)(d) of this act to a proposed action, the fiduciary or a beneficiary may request the court to have the proposed action taken as proposed, taken with modifications, or prevented. A person described in section 2304(1) of this act may oppose the proposed action in the proceeding under this subsection, whether or not the person:

(a) Consented under section 2304(2) of this act; or

(b) Objected under section 2304(3)(d) of this act.

(4) If, after sending a notice under subsection (2)(b) of this section, a fiduciary decides not to take the action proposed in the notice, the fiduciary shall notify in a record each person described in section 2304(1) of this act of the decision not to take the action and the reasons for the decision.

(5) If a beneficiary requests in a record that a fiduciary take an action described in subsection (1) of this section and the fiduciary declines to act or does not act within 90 days after receiving the request, the beneficiary may request the court to direct the fiduciary to take the action requested.

(6) In deciding whether and how to take an action authorized by subsection (1) of this section, or whether and how to respond to a request by a beneficiary under subsection (5) of this section, a fiduciary shall consider all factors relevant to the trust and the beneficiaries, including relevant factors in section 2201(5) of this act.

(7) A fiduciary may release or delegate the power to convert an income trust to a unitrust under subsection (1)(a) of this section, change the percentage or method used to calculate a unitrust amount under subsection (1)(b) of this section, or convert a unitrust to an income trust under subsection (1)(c) of this section, for a reason described in section 2203(7) of this act and in the manner described in section 2203(8) of this act.

NEW SECTION. Sec. 2304. NOTICE. (1) A notice required by section 2303(2)(b) of this act must be sent to:

(a) All beneficiaries that receive or are entitled to receive income from the trust or would be entitled to receive a distribution of principal if the trust were terminated at the time the notice is sent, assuming no power of appointment is exercised; and

(b) Each person that is granted a power over the trust by the terms of the trust, to the extent the power is exercisable when the person is not then serving as a trustee:

(i) Including a:

(A) Power over the investment, management, or distribution of trust property or other matters of trust administration; and

(B) Power to appoint or remove a trustee or person described in this subsection; and

(ii) Excluding a:

(A) Power of appointment;

(B) Power of a beneficiary over the trust, to the extent the exercise or nonexercise of the power affects the beneficial interest of the beneficiary; and

(C) Power over the trust if the terms of the trust provide that the power is held in a nonfiduciary capacity and the power must be held in a nonfiduciary capacity to achieve a tax objective under the federal internal revenue code of 1986, as amended, as of the effective date of this section.

(2) A person may consent in a record at any time to action proposed under section 2303(2)(b) of this act. A notice required by section 2303(2)(b) of this act need not be sent to a person that consents under this subsection.

(3) A notice required by section 2303(2)(b) of this act must include:

(a) The action proposed under section 2303(2)(b) of this act;

(b) For a conversion of an income trust to a unitrust, a copy of the unitrust policy adopted under section 2303(1)(a) of this act;

(c) For a change in the percentage or method used to calculate the unitrust amount, a copy of the unitrust policy or amendment or replacement of the unitrust policy adopted under section 2303(1)(b) of this act;

(d) A statement that the person to which the notice is sent may object to the proposed action by stating in a record the basis for the objection and sending or delivering the record to the fiduciary;

(e) The date by which an objection under (d) of this subsection (3) must be received by the fiduciary, which must be at least 30 days after the date the notice is sent;

(f) The date on which the action is proposed to be taken and the date on which the action is proposed to take effect;

(g) The name and contact information of the fiduciary; and

(h) The name and contact information of a person that may be contacted for additional information.

NEW SECTION. Sec. 2305. UNITRUST POLICY. (1) In administering a unitrust under this article, a fiduciary shall follow a unitrust policy adopted under section 2303(1) (a) or (b) of this act or amended or replaced under section 2303(1)(b) of this act.

(2) A unitrust policy must provide:

(a) The unitrust rate or the method for determining the unitrust rate under section 2306 of this act;

(b) The method for determining the applicable value under section 2307 of this act; and

(c) The rules described in sections 2306 through 2309 of this act, which apply in the administration of the unitrust, whether the rules are:

(i) Mandatory, as provided in sections 2307(1) and 2308(1) of this act; or

(ii) Optional, as provided in sections 2306, 2307(2), 2308(2), and 2309(1) of this act, to the extent the fiduciary elects to adopt those rules.

NEW SECTION. Sec. 2306. UNITRUST RATE. (1) Except as otherwise provided in section 2309(2)(a) of this act, a unitrust rate may be:

(a) A fixed unitrust rate; or

(b) A unitrust rate that is determined for each period using:

(i) A market index or other published data; or

(ii) A mathematical blend of market indices or other published data over a stated number of preceding periods.

(2) Except as otherwise provided in section 2309(2)(a) of this act, a unitrust policy may provide:

(a) A limit on how high the unitrust rate determined under subsection (1)(b) of this section may rise;

(b) A limit on how low the unitrust rate determined under subsection (1)(b) of this section may fall;

(c) A limit on how much the unitrust rate determined under subsection (1)(b) of this section may increase over the unitrust rate for the preceding period or a mathematical blend of unitrust rates over a stated number of preceding periods;

(d) A limit on how much the unitrust rate determined under subsection (1)(b) of this section may decrease below the unitrust rate for the preceding period or a mathematical blend of unitrust rates over a stated number of preceding periods; or

(e) A mathematical blend of any of the unitrust rates determined under subsection (1)(b) of this section and (a) through (d) of this subsection.

NEW SECTION. Sec. 2307. APPLICABLE VALUE. (1) A unitrust policy must provide the method for determining the fair market value of an asset for the purpose of determining the unitrust amount, including:

(a) The frequency of valuing the asset, which need not require a valuation in every period; and

(b) The date for valuing the asset in each period in which the asset is valued.

(2) Except as otherwise provided in section 2309(2)(b) of this act, a unitrust policy may provide methods for determining the amount of the net fair market value of the trust to take into account in determining the applicable value, including:

(a) Obtaining an appraisal of an asset for which fair market value is not readily available;

(b) Exclusion of specific assets or groups or types of assets;

(c) Other exceptions or modifications of the treatment of specific assets or groups or types of assets;

(d) Identification and treatment of cash or property held for distribution;

(e) Use of:

(i) An average of fair market values over a stated number of preceding periods; or

(ii) Another mathematical blend of fair market values over a stated number of preceding periods;

(f) A limit on how much the applicable value of all assets, groups of assets, or individual assets may increase over:

(i) The corresponding applicable value for the preceding period; or

(ii) A mathematical blend of applicable values over a stated number of preceding periods;

(g) A limit on how much the applicable value of all assets, groups of assets, or individual assets may decrease below:

(i) The corresponding applicable value for the preceding period; or

(ii) A mathematical blend of applicable values over a stated number of preceding periods;

(h) The treatment of accrued income and other features of an asset which affect value; and

(i) Determining the liabilities of the trust, including treatment of liabilities to conform with the treatment of assets under (a) through (h) of this subsection (2).

NEW SECTION. Sec. 2308. PERIOD. (1) A unitrust policy must provide the period used under sections 2306 and 2307 of this act. Except as otherwise provided in section 2309(2)(c) of this act, the period may be:

- (a) A calendar year;
- (b) A 12-month period other than a calendar year;
- (c) A calendar quarter;
- (d) A three-month period other than a calendar quarter; or
- (e) Another period.

(2) Except as otherwise provided in section 2309(2) of this act, a unitrust policy may provide standards for:

(a) Using fewer preceding periods under section 2306 (1)(b)(ii) or (2)(c) or (d) of this act if:

- (i) The trust was not in existence in a preceding period; or
- (ii) Market indices or other published data are not available for a preceding period;

(b) Using fewer preceding periods under section 2307(2) (e)(i) or (ii), (f)(ii), or (g)(ii) of this act if:

- (i) The trust was not in existence in a preceding period; or
- (ii) Fair market values are not available for a preceding period; and

(c) Prorating the unitrust amount on a daily basis for a part of a period in which the trust or the administration of the trust as a unitrust or the interest of any beneficiary commences or terminates.

NEW SECTION. Sec. 2309. SPECIAL TAX BENEFITS—OTHER RULES. (1) A unitrust policy may:

(a) Provide methods and standards for:

- (i) Determining the timing of distributions;
- (ii) Making distributions in cash or in-kind or partly in cash and partly in-kind; or
- (iii) Correcting an underpayment or overpayment to a beneficiary based on the unitrust amount if there is an error in calculating the unitrust amount;

(b) Specify sources and the order of sources, including categories of income for federal income tax purposes, from which distributions of a unitrust amount are paid; or

(c) Provide other standards and rules the fiduciary determines serve the interests of the beneficiaries.

(2) If a trust qualifies for a special tax benefit or a fiduciary is not an independent person:

(a) The unitrust rate established under section 2306 of this act may not be less than three percent or more than five percent;

(b) The only provisions of section 2307 of this act that apply are section 2307 (1) and (2)(a), (d), (e)(i), and (i) of this act;

(c) The only period that may be used under section 2308 of this act is a calendar year under section 2308(1)(a) of this act; and

(d) The only other provisions of section 2308 of this act that apply are section 2308(2) (b)(i) and (c) of this act.

ARTICLE 4
ALLOCATION OF RECEIPTS
SUBARTICLE 1
RECEIPTS FROM ENTITY

NEW SECTION. **Sec. 2401.** CHARACTER OF RECEIPTS FROM ENTITY. (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Capital distribution" means an entity distribution of money that is a:

(i) Return of capital; or

(ii) Distribution in total or partial liquidation of the entity.

(b) "Entity":

(i) Means a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund, or any other organization or arrangement in which a fiduciary owns or holds an interest, whether or not the entity is a taxpayer for federal income tax purposes; and

(ii) Does not include:

(A) A trust or estate to which section 2402 of this act applies;

(B) A business or other activity to which section 2403 of this act applies, which is not conducted by an entity described in (b)(i) of this subsection (1);

(C) An asset-backed security; or

(D) An instrument or arrangement to which section 2416 of this act applies.

(c) "Entity distribution" means a payment or transfer by an entity made to a person in the person's capacity as an owner or holder of an interest in the entity.

(2) In this section, an attribute or action of an entity includes an attribute or action of any other entity in which the entity owns or holds an interest, including an interest owned or held indirectly through another entity.

(3) Except as otherwise provided in subsection (4)(b) through (d) of this section, a fiduciary shall allocate to income:

(a) Money received in an entity distribution; and

(b) Tangible personal property of nominal value received from the entity.

(4) A fiduciary shall allocate to principal:

(a) Property received in an entity distribution which is not:

(i) Money; or

(ii) Tangible personal property of nominal value;

(b) Money received in an entity distribution in an exchange for part or all of the fiduciary's interest in the entity, to the extent the entity distribution reduces the fiduciary's interest in the entity relative to the interests of other persons that own or hold interests in the entity;

(c) Money received in an entity distribution that the fiduciary determines or estimates is a capital distribution; and

(d) Money received in an entity distribution from an entity that is:

(i) A regulated investment company or real estate investment trust if the money received is a capital gain dividend for federal income tax purposes; or

(ii) Treated for federal income tax purposes comparably to the treatment described in (d)(i) of this subsection (4).

(5) A fiduciary may determine or estimate that money received in an entity distribution is a capital distribution:

(a) By relying without inquiry or investigation on a characterization of the entity distribution provided by or on behalf of the entity, unless the fiduciary:

(i) Determines, on the basis of information known to the fiduciary, that the characterization is or may be incorrect; or

(ii) Owns or holds more than 50 percent of the voting interest in the entity;

(b) By determining or estimating, on the basis of information known to the fiduciary or provided to the fiduciary by or on behalf of the entity, that the total amount of money and property received by the fiduciary in the entity distribution or a series of related entity distributions is or will be greater than 20 percent of the fair market value of the fiduciary's interest in the entity; or

(c) If neither (a) or (b) of this subsection (5) applies, by considering the factors in subsection (6) of this section and the information known to the fiduciary or provided to the fiduciary by or on behalf of the entity.

(6) In making a determination or estimate under subsection (5)(c) of this section, a fiduciary may consider:

(a) A characterization of an entity distribution provided by or on behalf of the entity;

(b) The amount of money or property received in:

(i) The entity distribution; or

(ii) What the fiduciary determines is or will be a series of related entity distributions;

(c) The amount described in (b) of this subsection compared to the amount the fiduciary determines or estimates is, during the current or preceding accounting periods:

(i) The entity's operating income;

(ii) The proceeds of the entity's sale or other disposition of:

(A) All or part of the business or other activity conducted by the entity;

(B) One or more business assets that are not sold to customers in the ordinary course of the business or other activity conducted by the entity; or

(C) One or more assets other than business assets, unless the entity's primary activity is to invest in assets to realize gain on the disposition of all or some of the assets;

(iii) If the entity's primary activity is to invest in assets to realize gain on the disposition of all or some of the assets, the gain realized on the disposition;

(iv) The entity's regular, periodic entity distributions;

(v) The amount of money the entity has accumulated;

(vi) The amount of money the entity has borrowed;

(vii) The amount of money the entity has received from the sources described in sections 2407, 2410, 2411, and 2412 of this act; and

(viii) The amount of money the entity has received from a source not otherwise described in this subsection; and

(d) Any other factor the fiduciary determines is relevant.

(7) If, after applying subsections (3) through (6) of this section, a fiduciary determines that a part of an entity distribution is a capital distribution but is in doubt about the amount of the entity distribution which is a capital distribution, the fiduciary shall allocate to principal the amount of the entity distribution which is in doubt.

(8) If a fiduciary receives additional information about the application of this section to an entity distribution before the fiduciary has paid part of the

entity distribution to a beneficiary, the fiduciary may consider the additional information before making the payment to the beneficiary and may change a decision to make the payment to the beneficiary.

(9) If a fiduciary receives additional information about the application of this section to an entity distribution after the fiduciary has paid part of the entity distribution to a beneficiary, the fiduciary is not required to change or recover the payment to the beneficiary but may consider that information in determining whether to exercise the power to adjust under section 2203 of this act.

NEW SECTION. Sec. 2402. DISTRIBUTION FROM TRUST OR ESTATE. A fiduciary shall allocate to income an amount received as a distribution of income, including a unitrust distribution under article 3 of this chapter, from a trust or estate in which the fiduciary has an interest, other than an interest the fiduciary purchased in a trust that is an investment entity, and shall allocate to principal an amount received as a distribution of principal from the trust or estate. If a fiduciary purchases, or receives from a settlor, an interest in a trust that is an investment entity, section 2401, 2415, or 2416 of this act applies to a receipt from the trust.

NEW SECTION. Sec. 2403. BUSINESS OR OTHER ACTIVITY CONDUCTED BY FIDUCIARY. (1) This section applies to a business or other activity conducted by a fiduciary if the fiduciary determines that it is in the interests of the beneficiaries to account separately for the business or other activity instead of:

(a) Accounting for the business or other activity as part of the fiduciary's general accounting records; or

(b) Conducting the business or other activity through an entity described in section 2401(1)(b)(i) of this act.

(2) A fiduciary may account separately under this section for the transactions of a business or other activity, whether or not assets of the business or other activity are segregated from other assets held by the fiduciary.

(3) A fiduciary that accounts separately under this section for a business or other activity:

(a) May determine:

(i) The extent to which the net cash receipts of the business or other activity must be retained for:

(A) Working capital;

(B) The acquisition or replacement of fixed assets; and

(C) Other reasonably foreseeable needs of the business or other activity; and

(ii) The extent to which the remaining net cash receipts are accounted for as principal or income in the fiduciary's general accounting records for the trust;

(b) May make a determination under (a) of this subsection (3) separately and differently from the fiduciary's decisions concerning distributions of income or principal; and

(c) Shall account for the net amount received from the sale of an asset of the business or other activity, other than a sale in the ordinary course of the business or other activity, as principal in the fiduciary's general accounting records for the trust, to the extent the fiduciary determines that the net amount received is no longer required in the conduct of the business or other activity.

(4) Activities for which a fiduciary may account separately under this section include:

- (a) Retail, manufacturing, service, and other traditional business activities;
- (b) Farming;
- (c) Raising and selling livestock and other animals;
- (d) Managing rental properties;
- (e) Extracting minerals, water, and other natural resources;
- (f) Growing and cutting timber;
- (g) An activity to which section 2414, 2415, or 2416 of this act applies; and
- (h) Any other business conducted by the fiduciary.

SUBARTICLE 2

RECEIPTS NOT NORMALLY APPORTIONED

NEW SECTION. Sec. 2404. PRINCIPAL RECEIPTS. A fiduciary shall allocate to principal:

(1) To the extent not allocated to income under this chapter, an asset received from:

- (a) An individual during the individual's lifetime;
- (b) An estate;
- (c) A trust on termination of an income interest; or
- (d) A payor under a contract naming the fiduciary as beneficiary;

(2) Except as otherwise provided in this article, money or other property received from the sale, exchange, liquidation, or change in form of a principal asset;

(3) An amount recovered from a third party to reimburse the fiduciary because of a disbursement described in section 2502(1) of this act or for another reason to the extent not based on loss of income;

(4) Proceeds of property taken by eminent domain, except that proceeds awarded for loss of income in an accounting period are income if a current income beneficiary had a mandatory income interest during the period;

(5) Net income received in an accounting period during which there is no beneficiary to which a fiduciary may or must distribute income; and

(6) Other receipts as provided in sections 2408 through 2416 of this act.

NEW SECTION. Sec. 2405. RENTAL PROPERTY. To the extent a fiduciary does not account for the management of rental property as a business under section 2403 of this act, the fiduciary shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease. An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods:

(1) Must be added to principal and held subject to the terms of the lease, except as otherwise provided by law other than this chapter; and

(2) Is not allocated to income or available for distribution to a beneficiary until the fiduciary's contractual obligations have been satisfied with respect to that amount.

NEW SECTION. Sec. 2406. RECEIPT ON OBLIGATION TO BE PAID IN MONEY. (1) This section does not apply to an obligation to which section 2409, 2410, 2411, 2412, 2414, 2415, or 2416 of this act applies.

(2) A fiduciary shall allocate to income, without provision for amortization of premium, an amount received as interest on an obligation to pay money to the fiduciary, including an amount received as consideration for prepaying principal.

(3) A fiduciary shall allocate to principal an amount received from the sale, redemption, or other disposition of an obligation to pay money to the fiduciary. A fiduciary shall allocate to income the increment in value of a bond or other obligation for the payment of money bearing no stated interest but payable or redeemable, at maturity or another future time, in an amount that exceeds the amount in consideration of which it was issued.

NEW SECTION. Sec. 2407. INSURANCE POLICY OR CONTRACT.

(1) This section does not apply to a contract to which section 2409 of this act applies.

(2) Except as otherwise provided in subsection (3) of this section, a fiduciary shall allocate to principal the proceeds of a life insurance policy or other contract received by the fiduciary as beneficiary, including a contract that insures against damage to, destruction of, or loss of title to an asset. The fiduciary shall allocate dividends on an insurance policy to income to the extent premiums on the policy are paid from income and to principal to the extent premiums on the policy are paid from principal.

(3) A fiduciary shall allocate to income proceeds of a contract that insures the fiduciary against loss of:

- (a) Occupancy or other use by a current income beneficiary;
- (b) Income; or
- (c) Subject to section 2403 of this act, profits from a business.

SUBARTICLE 3

RECEIPTS NORMALLY APPORTIONED

NEW SECTION. Sec. 2408. INSUBSTANTIAL ALLOCATION NOT REQUIRED. (1) If a fiduciary determines that an allocation between income and principal required by section 2409, 2410, 2411, 2412, or 2415 of this act is insubstantial, the fiduciary may allocate the entire amount to principal, unless section 2203(5) of this act applies to the allocation.

(2) A fiduciary may presume an allocation is insubstantial under subsection (1) of this section if:

(a) The amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than 10 percent; and

(b) The asset producing the receipt to be allocated has a fair market value less than 10 percent of the total fair market value of the assets owned or held by the fiduciary at the beginning of the accounting period.

(3) The power to make a determination under subsection (1) of this section may be:

(a) Exercised by a cofiduciary in the manner described in section 2203(6) of this act; or

(b) Released or delegated for a reason described in section 2203(7) of this act and in the manner described in section 2203(8) of this act.

NEW SECTION. Sec. 2409. DEFERRED COMPENSATION, ANNUITY, OR SIMILAR PAYMENT. (1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Internal income of a separate fund" means the amount determined under subsection (2) of this section.

(b) "Marital trust" means a trust:

(i) Of which the settlor's surviving spouse is the only current income beneficiary and is entitled to a distribution of all the current net income of the trust; and

(ii) That qualifies for a marital deduction with respect to the settlor's estate under 26 U.S.C. Sec. 2056 of the federal internal revenue code of 1986, as amended, as of the effective date of this section, because:

(A) An election to qualify for a marital deduction under 26 U.S.C. Sec. 2056(b)(7) of the federal internal revenue code of 1986, as amended, as of the effective date of this section, has been made; or

(B) The trust qualifies for a marital deduction under 26 U.S.C. Sec. 2056(b)(5) of the federal internal revenue code of 1986, as amended, as of the effective date of this section.

(c) "Payment" means an amount a fiduciary may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payor in exchange for future amounts the fiduciary may receive. The term includes an amount received in money or property from the payor's general assets or from a separate fund created by the payor.

(d) "Separate fund" includes a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock bonus, or stock ownership plan.

(2) For each accounting period, the following rules apply to a separate fund:

(a) The fiduciary shall determine the internal income of the separate fund as if the separate fund were a trust subject to this chapter.

(b) If the fiduciary cannot determine the internal income of the separate fund under (a) of this subsection (2), the internal income of the separate fund is deemed to equal four percent of the value of the separate fund, according to the most recent statement of value preceding the beginning of the accounting period.

(c) If the fiduciary cannot determine the value of the separate fund under (b) of this subsection (2), the value of the separate fund is deemed to equal the present value of the expected future payments, as determined under 26 U.S.C. Sec. 7520 of the federal internal revenue code of 1986, as amended, as of the effective date of this section, for the month preceding the beginning of the accounting period for which the computation is made.

(3) A fiduciary shall allocate a payment received from a separate fund during an accounting period to income, to the extent of the internal income of the separate fund during the period, and the balance to principal.

(4) The fiduciary of a marital trust shall:

(a) Withdraw from a separate fund the amount the current income beneficiary of the trust requests the fiduciary to withdraw, not greater than the amount by which the internal income of the separate fund during the accounting period exceeds the amount the fiduciary otherwise receives from the separate fund during the period;

(b) Transfer from principal to income the amount the current income beneficiary requests the fiduciary to transfer, not greater than the amount by which the internal income of the separate fund during the period exceeds the

amount the fiduciary receives from the separate fund during the period after the application of (a) of this subsection (2); and

(c) Distribute to the current income beneficiary as income:

(i) The amount of the internal income of the separate fund received or withdrawn during the period; and

(ii) The amount transferred from principal to income under (b) of this subsection (2).

(5) For a trust, other than a marital trust, of which one or more current income beneficiaries are entitled to a distribution of all the current net income, the fiduciary shall transfer from principal to income the amount by which the internal income of a separate fund during the accounting period exceeds the amount the fiduciary receives from the separate fund during the period.

NEW SECTION. Sec. 2410. LIQUIDATING ASSET. (1) In this section, "liquidating asset" means an asset whose value will diminish or terminate because the asset is expected to produce receipts for a limited time. The term includes a leasehold, patent, copyright, royalty right, and right to receive payments during a period of more than one year under an arrangement that does not provide for the payment of interest on the unpaid balance.

(2) This section does not apply to a receipt subject to section 2401, 2409, 2411, 2412, 2414, 2415, 2416, or 2503 of this act.

(3) A fiduciary shall allocate to income 10 percent of the receipts from a liquidating asset and the balance to principal.

NEW SECTION. Sec. 2411. MINERALS, WATER, AND OTHER NATURAL RESOURCES. (1) To the extent a fiduciary accounts for a receipt from an interest in minerals, water, or other natural resources pursuant to this section, the fiduciary shall allocate the receipt:

(a) If received as nominal delay rental or nominal annual rent on a lease, a receipt must be allocated to income;

(b) If received from a production payment, a receipt must be allocated to income if and to the extent that the agreement creating the production payment provides a factor for interest or its equivalent. The balance must be allocated to principal;

(c) If an amount received as a royalty, shut-in-well payment, take-or-pay payment, bonus, or delay rental is more than nominal, 90 percent must be allocated to principal and the balance to income; or

(d) If an amount is received from a working interest or any other interest not provided for in (a), (b), or (c) of this subsection, 90 percent of the net amount received must be allocated to principal and the balance to income.

(2) An amount received on account of an interest in water that is renewable must be allocated to income. If the water is not renewable, 90 percent of the amount must be allocated to principal and the balance to income.

(3) This chapter applies whether or not a decedent or donor was extracting minerals, water, or other natural resources before the interest became subject to the trust.

(4) If a fiduciary owns or holds an interest in minerals, water, or other natural resources on January 1, 2022, the fiduciary may allocate receipts from the interest as provided in this chapter or in the manner used by the fiduciary before January 1, 2022. If the fiduciary acquires an interest in minerals, water, or

other natural resources after January 1, 2022, the fiduciary shall allocate receipts from the interest as provided in this chapter.

NEW SECTION. Sec. 2412. TIMBER. (1) To the extent a fiduciary does not account for receipts from the sale of timber and related products as a business under section 2403 of this act, the fiduciary shall allocate the net receipts:

(a) To income, to the extent the amount of timber cut from the land does not exceed the rate of growth of the timber;

(b) To principal, to the extent the amount of timber cut from the land exceeds the rate of growth of the timber or the net receipts are from the sale of standing timber;

(c) Between income and principal if the net receipts are from the lease of land used for growing and cutting timber or from a contract to cut timber from land, by determining the amount of timber cut from the land under the lease or contract and applying the rules in (a) or (b) of this subsection; or

(d) To principal, to the extent advance payments, bonuses, and other payments are not allocated under (a), (b), or (c) of this subsection.

(2) In determining net receipts to be allocated under subsection (1) of this section, a fiduciary shall deduct and transfer to principal a reasonable amount for depletion.

(3) This section applies to land owned or held by a fiduciary whether or not a settlor was cutting timber from the land before the fiduciary owned or held the property.

(4) If a fiduciary owns or holds an interest in land used for growing and cutting timber before the effective date of this section, the fiduciary may allocate net receipts from the sale of timber and related products as provided in this section or in the manner used by the fiduciary before the effective date of this section. If the fiduciary acquires an interest in land used for growing and cutting timber on or after the effective date of this section, the fiduciary shall allocate net receipts from the sale of timber and related products as provided in this section.

NEW SECTION. Sec. 2413. MARITAL DEDUCTION PROPERTY NOT PRODUCTIVE OF INCOME. (1) If a trust received property for which a gift or estate tax marital deduction was allowed and the settlor's spouse holds a mandatory income interest in the trust, the spouse may require the trustee, to the extent the trust assets otherwise do not provide the spouse with sufficient income from or use of the trust assets to qualify for the deduction, to:

(a) Make property productive of income;

(b) Convert property to property productive of income within a reasonable time; or

(c) Exercise the power to adjust under section 2203 of this act.

(2) The trustee may decide which action or combination of actions in subsection (1) of this section to take.

NEW SECTION. Sec. 2414. DERIVATIVE OR OPTION. (1) In this section, "derivative" means a contract, instrument, other arrangement, or combination of contracts, instruments, or other arrangements, the value, rights, and obligations of which are, in whole or in part, dependent on or derived from an underlying tangible or intangible asset, group of tangible or intangible assets,

index, or occurrence of an event. The term includes stocks, fixed income securities, and financial instruments and arrangements based on indices, commodities, interest rates, weather-related events, and credit default events.

(2) To the extent a fiduciary does not account for a transaction in derivatives as a business under section 2403 of this act, the fiduciary shall allocate all receipts from the transaction and all disbursements made in connection with the transaction to principal.

(3) Subsection (4) of this section applies if:

(a) A fiduciary:

(i) Grants an option to buy property from a trust, whether or not the trust owns the property when the option is granted;

(ii) Grants an option that permits another person to sell property to the trust; or

(iii) Acquires an option to buy property for the trust or an option to sell an asset owned by the trust; and

(b) The fiduciary or other owner of the asset is required to deliver the asset if the option is exercised.

(4) If this subsection applies, the fiduciary shall allocate 10 percent to income and the balance to principal of the following amounts:

(a) An amount received for granting the option;

(b) An amount paid to acquire the option; and

(c) Gain or loss realized on the exercise, exchange, settlement, offset, closing, or expiration of the option.

NEW SECTION. Sec. 2415. ASSET-BACKED SECURITY. (1) If a fiduciary receives a payment from interest or other current return and from other proceeds of the collateral financial assets, the fiduciary shall allocate to income the portion of the payment which the payer identifies as being from interest or other current return and shall allocate the balance of the payment to principal.

(2) If a fiduciary receives one or more payments in exchange for the fiduciary's entire interest in an asset-backed security in one accounting period, the fiduciary shall allocate the payments to principal. If a payment is one of a series of payments that will result in the liquidation of the trust's interest in the security over more than one accounting period, the fiduciary shall allocate 10 percent of the payment to income and the balance to principal.

NEW SECTION. Sec. 2416. OTHER FINANCIAL INSTRUMENT OR ARRANGEMENT. A fiduciary shall allocate receipts from or related to a financial instrument or arrangement not otherwise addressed by this chapter. The allocation must be consistent with sections 2414 and 2415 of this act.

ARTICLE 5

ALLOCATION OF DISBURSEMENTS

NEW SECTION. Sec. 2501. DISBURSEMENT FROM INCOME. Subject to section 2504 of this act, and except as otherwise provided in section 2601(3) (b) or (c) of this act, a fiduciary shall disburse from income:

(1) One-half of:

(a) The regular compensation of the fiduciary and any person providing investment advisory, custodial, or other services to the fiduciary, to the extent income is sufficient; and

(b) An expense for an accounting, judicial or nonjudicial proceeding, or other matter that involves both income and successive interests, to the extent income is sufficient;

(2) The balance of the disbursements described in subsection (1) of this section, to the extent a fiduciary that is an independent person determines that making those disbursements from income would be in the interests of the beneficiaries;

(3) Another ordinary expense incurred in connection with administration, management, or preservation of property and distribution of income, including interest, an ordinary repair, regularly recurring tax assessed against principal, and an expense of an accounting, judicial or nonjudicial proceeding, or other matter that involves primarily an income interest, to the extent income is sufficient; and

(4) A premium on insurance covering loss of a principal asset or income from or use of the asset.

NEW SECTION. Sec. 2502. DISBURSEMENT FROM PRINCIPAL. (1) Subject to section 2505 of this act, and except as otherwise provided in section 2601(3)(b) of this act, a fiduciary shall disburse from principal:

(a) The balance of the disbursements described in section 2501 (1) and (3) of this act after application of section 2501(2) of this act;

(b) The fiduciary's compensation calculated on principal as a fee for acceptance, distribution, or termination;

(c) A payment of an expense to prepare for or execute a sale or other disposition of property;

(d) A payment on the principal of a trust debt;

(e) A payment of an expense of an accounting, judicial or nonjudicial proceeding, or other matter that involves primarily principal, including a proceeding to construe the terms of the trust or protect property;

(f) A payment of a premium for insurance, including title insurance, not described in section 2501(4) of this act, of which the fiduciary is the owner and beneficiary;

(g) A payment of an estate or inheritance tax or other tax imposed because of the death of a decedent, including penalties, apportioned to the trust; and

(h) A payment:

(i) Related to environmental matters, including:

(A) Reclamation;

(B) Assessing environmental conditions;

(C) Remedying and removing environmental contamination;

(D) Monitoring remedial activities and the release of substances;

(E) Preventing future releases of substances;

(F) Collecting amounts from persons liable or potentially liable for the costs of activities described in (h)(i)(A) through (E) of this subsection (1);

(G) Penalties imposed under environmental laws or regulations;

(H) Other actions to comply with environmental laws or regulations;

(I) Statutory or common law claims by third parties; and

(J) Defending claims based on environmental matters; and

(ii) For a premium for insurance for matters described in (h)(i) of this subsection (1).

(2) If a principal asset is encumbered with an obligation that requires income from the asset to be paid directly to a creditor, the fiduciary shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

NEW SECTION. Sec. 2503. TRANSFER FROM INCOME TO PRINCIPAL FOR DEPRECIATION. (1) In this section, "depreciation" means a reduction in value due to wear, tear, decay, corrosion, or gradual obsolescence of a tangible asset having a useful life of more than one year.

(2) A fiduciary may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but may not transfer any amount for depreciation:

(a) Of the part of real property used or available for use by a beneficiary as a residence;

(b) Of tangible personal property held or made available for the personal use or enjoyment of a beneficiary; or

(c) Under this section, to the extent the fiduciary accounts:

(i) Under section 2410 of this act for the asset; or

(ii) Under section 2403 of this act for the business or other activity in which the asset is used.

(3) An amount transferred to principal under this section need not be separately held.

NEW SECTION. Sec. 2504. REIMBURSEMENT OF INCOME FROM PRINCIPAL. (1) If a fiduciary makes or expects to make an income disbursement described in subsection (2) of this section, the fiduciary may transfer an appropriate amount from principal to income in one or more accounting periods to reimburse income.

(2) To the extent the fiduciary has not been and does not expect to be reimbursed by a third party, income disbursements to which subsection (1) of this section applies include:

(a) An amount chargeable to principal but paid from income because principal is illiquid;

(b) A disbursement made to prepare property for sale, including improvements and commissions; and

(c) A disbursement described in section 2502(1) of this act.

(3) If an asset whose ownership gives rise to an income disbursement becomes subject to a successive interest after an income interest ends, the fiduciary may continue to make transfers under subsection (1) of this section.

NEW SECTION. Sec. 2505. REIMBURSEMENT OF PRINCIPAL FROM INCOME. (1) If a fiduciary makes or expects to make a principal disbursement described in subsection (2) of this section, the fiduciary may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or provide a reserve for future principal disbursements.

(2) To the extent a fiduciary has not been and does not expect to be reimbursed by a third party, principal disbursements to which subsection (1) of this section applies include:

(a) An amount chargeable to income but paid from principal because income is not sufficient;

(b) The cost of an improvement to principal, whether a change to an existing asset or the construction of a new asset, including a special assessment;

(c) A disbursement made to prepare property for rental, including tenant allowances, leasehold improvements, and commissions;

(d) A periodic payment on an obligation secured by a principal asset, to the extent the amount transferred from income to principal for depreciation is less than the periodic payment; and

(e) A disbursement described in section 2502(1) of this act.

(3) If an asset whose ownership gives rise to a principal disbursement becomes subject to a successive interest after an income interest ends, the fiduciary may continue to make transfers under subsection (1) of this section.

NEW SECTION. Sec. 2506. INCOME TAXES. (1) A tax required to be paid by a fiduciary based on receipts allocated to income must be charged to income.

(2) A tax required to be paid by a fiduciary based on receipts allocated to principal must be charged to principal, even if the tax is called an income tax by the taxing authority.

(3) A tax required to be paid by a fiduciary on a share of an entity's taxable income must be charged:

(a) To income to the extent that receipts from the entity are allocated only to income;

(b) To principal to the extent that receipts from the entity are allocated only to principal;

(c) Proportionately to income and principal to the extent that receipts from the entity are allocated to both income and principal.

(4) Before applying subsections (1) through (3) of this section, the trustee must adjust income or principal receipts by the distributions to a beneficiary for which the trust receives an income tax deduction.

NEW SECTION. Sec. 2507. ADJUSTMENT BETWEEN INCOME AND PRINCIPAL BECAUSE OF TAXES. (1) A fiduciary may make an adjustment between income and principal to offset the shifting of economic interests or tax benefits between current income beneficiaries and successor beneficiaries which arises from:

(a) An election or decision the fiduciary makes regarding a tax matter, other than a decision to claim an income tax deduction to which subsection (2) of this section applies;

(b) An income tax or other tax imposed on the fiduciary or a beneficiary as a result of a transaction involving the fiduciary or a distribution by the fiduciary; or

(c) Ownership by the fiduciary of an interest in an entity a part of whose taxable income, whether or not distributed, is includable in the taxable income of the fiduciary or a beneficiary.

(2) If the amount of an estate tax marital or charitable deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting it for estate tax purposes and, as a result, estate taxes paid from principal are increased and income taxes paid by the fiduciary or a beneficiary are decreased, the fiduciary shall charge each beneficiary that benefits from the decrease in income tax to reimburse the principal from which

the increase in estate tax is paid. The total reimbursement must equal the increase in the estate tax, to the extent the principal used to pay the increase would have qualified for a marital or charitable deduction but for the payment. The share of the reimbursement for each fiduciary or beneficiary whose income taxes are reduced must be the same as its share of the total decrease in income tax.

(3) A fiduciary that charges a beneficiary under subsection (2) of this section may offset the charge by obtaining payment from the beneficiary, withholding an amount from future distributions to the beneficiary, or adopting another method or combination of methods.

ARTICLE 6

DEATH OF INDIVIDUAL OR TERMINATION OF INCOME INTEREST

NEW SECTION. Sec. 2601. DETERMINATION AND DISTRIBUTION OF NET INCOME. (1) This section applies when:

- (a) The death of an individual results in the creation of an estate or trust; or
- (b) An income interest in a trust terminates, whether the trust continues or is distributed.

(2) A fiduciary of an estate or trust with an income interest that terminates shall determine, under subsection (7) of this section and articles 4, 5, and 7 of this chapter, the amount of net income and net principal receipts received from property specifically given to a beneficiary. The fiduciary shall distribute the net income and net principal receipts to the beneficiary that is to receive the specific property.

(3) A fiduciary shall determine the income and net income of an estate or income interest in a trust which terminates, other than the amount of net income determined under subsection (2) of this section, under articles 4, 5, and 7 of this chapter and by:

(a) Including in net income all income from property used or sold to discharge liabilities;

(b) Paying from income or principal, in the fiduciary's discretion, fees of attorneys, accountants, and fiduciaries, court costs and other expenses of administration, and interest on estate and inheritance taxes and other taxes imposed because of the decedent's death, but the fiduciary may pay the expenses from income of property passing to a trust for which the fiduciary claims a federal estate tax marital or charitable deduction only to the extent:

(i) The payment of the expenses from income will not cause the reduction or loss of the deduction; or

(ii) The fiduciary makes an adjustment under section 2507(2) of this act; and

(c) Paying from principal other disbursements made or incurred in connection with the settlement of the estate or the winding up of an income interest that terminates, including:

(i) To the extent authorized by the decedent's will, the terms of the trust, or applicable law, debts, funeral expenses, disposition of remains, family allowances, estate and inheritance taxes, and other taxes imposed because of the decedent's death; and

(ii) Related penalties that are apportioned, by the decedent's will, the terms of the trust, or applicable law, to the estate or income interest that terminates.

(4) If a decedent's will, the terms of a trust, or applicable law provides for the payment of interest or the equivalent of interest to a beneficiary that receives a pecuniary amount outright, the fiduciary shall make the payment from net income determined under subsection (3) of this section or from principal to the extent net income is insufficient.

(5) If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends because of an income beneficiary's death, and no payment of interest or the equivalent of interest is provided for by the terms of the trust or applicable law, the fiduciary shall pay the interest or the equivalent of interest to which the beneficiary would be entitled under applicable law if the pecuniary amount were required to be paid under a will.

(6) A fiduciary shall distribute net income remaining after payments required by subsections (4) and (5) of this section in the manner described in section 2602 of this act to all other beneficiaries, including a beneficiary that receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust.

(7) A fiduciary may not reduce principal or income receipts from property described in subsection (2) of this section because of a payment described in section 2501 or 2502 of this act, to the extent the decedent's will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent the fiduciary recovers or expects to recover the payment from a third party. The net income and principal receipts from the property must be determined by including the amount the fiduciary receives or pays regarding the property, whether the amount accrued or became due before, on, or after the date of the decedent's death or an income interest's terminating event, and making a reasonable provision for an amount the estate or income interest may become obligated to pay after the property is distributed.

NEW SECTION. Sec. 2602. DISTRIBUTION TO SUCCESSOR BENEFICIARY. (1) Except to the extent article 3 of this chapter applies for a beneficiary that is a trust, each beneficiary described in section 2601(6) of this act is entitled to receive a share of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date. If a fiduciary makes more than one distribution of assets to beneficiaries to which this section applies, each beneficiary, including a beneficiary that does not receive part of the distribution, is entitled, as of each distribution date, to a share of the net income the fiduciary received after the decedent's death, an income interest's other terminating event, or the preceding distribution by the fiduciary.

(2) In determining a beneficiary's share of net income under subsection (1) of this section, the following rules apply:

(a) The beneficiary is entitled to receive a share of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date.

(b) The beneficiary's fractional interest under (a) of this subsection must be calculated:

(i) On the aggregate value of the assets as of the distribution date without reducing the value by any unpaid principal obligation; and

(ii) Without regard to:

(A) Property specifically given to a beneficiary under the decedent's will or the terms of the trust; and

(B) Property required to pay pecuniary amounts not in trust.

(c) The distribution date under (a) of this subsection may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which the assets are distributed.

(3) To the extent a fiduciary does not distribute under this section all the collected but undistributed net income to each beneficiary as of a distribution date, the fiduciary shall maintain records showing the interest of each beneficiary in the net income.

(4) If this section applies to income from an asset, a fiduciary may apply the rules in this section to net gain or loss realized from the disposition of the asset after the decedent's death, an income interest's terminating event, or the preceding distribution by the fiduciary.

ARTICLE 7

APPORTIONMENT AT BEGINNING AND END OF INCOME INTEREST

NEW SECTION. Sec. 2701. WHEN RIGHT TO INCOME BEGINS AND ENDS. (1) An income beneficiary is entitled to net income in accordance with the terms of the trust from the date an income interest begins. The income interest begins on the date specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to:

- (a) The trust for the current income beneficiary; or
- (b) A successive interest for a successor beneficiary.

(2) An asset becomes subject to a trust under subsection (1)(a) of this section:

(a) For an asset that is transferred to the trust during the settlor's life, on the date the asset is transferred;

(b) For an asset that becomes subject to the trust because of a decedent's death, on the date of the decedent's death, even if there is an intervening period of administration of the decedent's estate; or

(c) For an asset that is transferred to a fiduciary by a third party because of a decedent's death, on the date of the decedent's death.

(3) An asset becomes subject to a successive interest under subsection (1)(b) of this section on the day after the preceding income interest ends, as determined under subsection (4) of this section, even if there is an intervening period of administration to wind up the preceding income interest.

(4) An income interest ends on the day before an income beneficiary dies or another terminating event occurs or on the last day of a period during which there is no beneficiary to which a fiduciary may or must distribute income.

NEW SECTION. Sec. 2702. APPORTIONMENT OF RECEIPTS AND DISBURSEMENTS WHEN DECEDENT DIES OR INCOME INTEREST BEGINS. (1) A fiduciary shall allocate an income receipt or disbursement, other than a receipt to which section 2601(2) of this act applies, to principal if its due date occurs before the date on which:

- (a) For an estate, the decedent died; or
- (b) For a trust or successive interest, an income interest begins.

(2) If the due date of a periodic income receipt or disbursement occurs on or after the date on which a decedent died or an income interest begins, a fiduciary shall allocate the receipt or disbursement to income.

(3) If an income receipt or disbursement is not periodic or has no due date, a fiduciary shall treat the receipt or disbursement under this section as accruing from day to day. The fiduciary shall allocate to principal the portion of the receipt or disbursement accruing before the date on which a decedent died or an income interest begins, and to income the balance.

(4) A receipt or disbursement is periodic under subsections (2) and (3) of this section if:

(a) The receipt or disbursement must be paid at regular intervals under an obligation to make payments; or

(b) The payor customarily makes payments at regular intervals.

(5) An item of income or obligation is due under this section on the date the payor is required to make a payment. If a payment date is not stated, there is no due date.

(6) Distributions to shareholders or other owners from an entity to which section 2401 of this act applies are due:

(a) On the date fixed by or on behalf of the entity for determining the persons entitled to receive the distribution;

(b) If no date is fixed, on the date of the decision by or on behalf of the entity to make the distribution; or

(c) If no date is fixed and the fiduciary does not know the date of the decision by or on behalf of the entity to make the distribution, on the date the fiduciary learns of the decision.

NEW SECTION. Sec. 2703. APPORTIONMENT WHEN INCOME INTEREST ENDS. (1) In this section, "undistributed income" means net income received on or before the date on which an income interest ends. The term does not include an item of income or expense which is due or accrued or net income that has been added or is required to be added to principal under the terms of the trust.

(2) Except as otherwise provided in subsection (3) of this section, when a mandatory income interest of a beneficiary ends, the fiduciary shall pay the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust to the beneficiary or, if the beneficiary does not survive the date the interest ends, to the beneficiary's estate.

(3) If a beneficiary has an unqualified power to withdraw more than five percent of the value of a trust immediately before an income interest ends:

(a) The fiduciary shall allocate to principal the undistributed income from the portion of the trust which may be withdrawn; and

(b) Subsection (2) of this section applies only to the balance of the undistributed income.

(4) When a fiduciary's obligation to pay a fixed annuity or a fixed fraction of the value of assets ends, the fiduciary shall prorate the final payment as required to preserve an income tax, gift tax, estate tax, or other tax benefit.

ARTICLE 8
MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 2801. UNIFORMITY OF APPLICATION AND CONSTRUCTION. (1) 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.

(2) To the extent that this chapter is in conflict with RCW 11.68.090, RCW 11.68.090 prevails.

NEW SECTION. Sec. 2802. 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. 2803. APPLICATION TO TRUST OR ESTATE. This chapter applies to a trust or estate existing or created on or after the effective date of this section, except as otherwise expressly provided in the terms of the trust or sections 2101 through 2802 of this act.

Sec. 2804. RCW 30B.24.005 and 2019 c 389 s 41 are each amended to read as follows:

(1) Except to the extent federal preemption of state law is applicable in relation to trusts governed under the federal employment retirement income security act, a state trust company shall comply with all applicable provisions of this title and with applicable provisions of Title 11 RCW including, without limitation, chapters 11.97, 11.98, 11.98A, 11.100, 11.102, (~~(11.104A)~~) 11.--- (the new chapter created in section 2808 of this act), 11.106, 11.107, and 11.108 RCW, and with chapter 11.110 RCW, in the case of a charitable trust.

(2) The director has broad administrative authority to establish by rule or interpretation principles-based standards for examination, supervision, and enforcement of a state trust company by the department in relation to compliance with this title, including subsection (1) of this section.

(3) A state bank, in relation to its trust department and its exercise of trust powers, shall comply with:

(a) Title 30A RCW, if a state commercial bank, and Title 32 RCW, if a state savings bank;

(b) The applicable provisions of Title 11 RCW including, without limitation, chapters 11.97, 11.98, 11.98A, 11.100, 11.102, (~~(11.104A)~~) 11.--- (the new chapter created in section 2808 of this act), 11.106, 11.107, and 11.108 RCW, and with chapter 11.110 RCW, in the case of a charitable trust;

(c) If the state bank is federally insured, any applicable rules and guidance of the federal deposit insurance corporation or other applicable federal law or regulation related to such state bank's exercise of trust powers; and

(d) If the state bank is a member of the federal reserve system, any rules and guidance of the board of governors of the federal reserve system related to such state bank's exercise of trust powers.

NEW SECTION. Sec. 2805. RECODIFICATIONS. RCW 11.104A.901 and 11.104A.907 are each recodified as sections in chapter 11.--- RCW (the new chapter created in section 2808 of this act).

NEW SECTION. Sec. 2806. REPEALERS. The following acts or parts of acts are each repealed:

- (1) RCW 11.104A.001 (Short title) and 2002 c 345 s 101;
- (2) RCW 11.104A.005 (Definitions) and 2002 c 345 s 102;
- (3) RCW 11.104A.010 (Fiduciary duties—General principles) and 2002 c 345 s 103;
- (4) RCW 11.104A.020 (Fiduciary's power to adjust) and 2002 c 345 s 104;
- (5) RCW 11.104A.030 (Judicial control of discretionary powers) and 2002 c 345 s 105;
- (6) RCW 11.104A.040 (Power to convert to unitrust) and 2006 c 360 s 1 & 2002 c 345 s 106;
- (7) RCW 11.104A.050 (Determination and distribution of net income) and 2006 c 360 s 2 & 2002 c 345 s 201;
- (8) RCW 11.104A.060 (Distribution to residuary and remainder beneficiaries) and 2002 c 345 s 202;
- (9) RCW 11.104A.070 (When right to income begins and ends) and 2002 c 345 s 301;
- (10) RCW 11.104A.080 (Apportionment of receipts and disbursements when decedent dies or income interest begins) and 2002 c 345 s 302;
- (11) RCW 11.104A.090 (Apportionment when income interest ends) and 2002 c 345 s 303;
- (12) RCW 11.104A.100 (Character of receipts) and 2002 c 345 s 401;
- (13) RCW 11.104A.110 (Distribution from trust or estate) and 2002 c 345 s 402;
- (14) RCW 11.104A.120 (Business and other activities conducted by trustee) and 2002 c 345 s 403;
- (15) RCW 11.104A.130 (Principal receipts) and 2002 c 345 s 404;
- (16) RCW 11.104A.140 (Rental property) and 2002 c 345 s 405;
- (17) RCW 11.104A.150 (Obligation to pay money) and 2002 c 345 s 406;
- (18) RCW 11.104A.160 (Insurance policies and similar contracts) and 2002 c 345 s 407;
- (19) RCW 11.104A.170 (Insubstantial allocations not required) and 2002 c 345 s 408;
- (20) RCW 11.104A.180 (Deferred compensation, annuities, and similar payments) and 2009 c 365 s 1 & 2002 c 345 s 409;
- (21) RCW 11.104A.190 (Liquidating asset) and 2002 c 345 s 410;
- (22) RCW 11.104A.200 (Minerals, water, and other natural resources) and 2002 c 345 s 411;
- (23) RCW 11.104A.210 (Timber) and 2002 c 345 s 412;
- (24) RCW 11.104A.220 (Property not productive of income) and 2002 c 345 s 413;
- (25) RCW 11.104A.230 (Derivatives and options) and 2002 c 345 s 414;
- (26) RCW 11.104A.240 (Asset-backed securities) and 2002 c 345 s 415;
- (27) RCW 11.104A.250 (Disbursements from income) and 2002 c 345 s 501;

(28) RCW 11.104A.260 (Disbursements from principal) and 2002 c 345 s 502;

(29) RCW 11.104A.270 (Transfers from income to principal for depreciation) and 2002 c 345 s 503;

(30) RCW 11.104A.280 (Transfers from income to reimburse principal) and 2002 c 345 s 504;

(31) RCW 11.104A.290 (Income taxes) and 2011 c 33 s 1 & 2002 c 345 s 505;

(32) RCW 11.104A.300 (Adjustments between principal and income because of taxes) and 2002 c 345 s 506;

(33) RCW 11.104A.900 (Uniformity of application and construction) and 2021 c . . . s 4025 (section 4025 of this act) & 2002 c 345 s 602;

(34) RCW 11.104A.904 (Effective date—2002 c 345) and 2002 c 345 s 606;

(35) RCW 11.104A.905 (Application of act to existing trusts and estates) and 2002 c 345 s 607; and

(36) RCW 11.104A.906 (Transitional matters) and 2009 c 365 s 2.

NEW SECTION. Sec. 2807. SEVERABILITY. If any provision of sections 2101 through 2806 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. 2808. CODIFICATION. Sections 2101 through 2803 and 2809 of this act constitute a new chapter in Title 11 RCW.

NEW SECTION. Sec. 2809. EFFECTIVE DATE. Sections 2101 through 2806 of this act take effect January 1, 2022.

PART III

UNIFORM POWERS OF APPOINTMENT ACT

ARTICLE 1

GENERAL PROVISIONS

NEW SECTION. Sec. 3101. SHORT TITLE. This chapter may be known and cited as the uniform powers of appointment act.

NEW SECTION. Sec. 3102. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Appointee" means a person to which a powerholder makes an appointment of appointive property.

(2) "Appointive property" means the property or property interest subject to a power of appointment.

(3) "Blanket-exercise clause" means a clause in an instrument which exercises a power of appointment and is not a specific-exercise clause. The term includes a clause that:

(a) Expressly uses the words "any power" in exercising any power of appointment the powerholder has;

(b) Expressly uses the words "any property" in appointing any property over which the powerholder has a power of appointment; or

(c) Disposes of all property subject to disposition by the powerholder.

(4) "Donor" means a person that creates a power of appointment.

(5) "Exclusionary power of appointment" means a power of appointment exercisable in favor of any one or more of the permissible appointees to the exclusion of the other permissible appointees.

(6) "General power of appointment" means a power of appointment exercisable in favor of the powerholder, the powerholder's estate, a creditor of the powerholder, or a creditor of the powerholder's estate.

(7) "Gift-in-default clause" means a clause identifying a taker in default of appointment.

(8) "Impermissible appointee" means a person that is not a permissible appointee.

(9) "Instrument" means a record.

(10) "Nongeneral power of appointment" means a power of appointment that is not a general power of appointment.

(11) "Permissible appointee" means a person in whose favor a powerholder may exercise a power of appointment.

(12) "Person" means an individual, estate, trust, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(13) "Power of appointment" means a power that enables a powerholder acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of appointment over the appointive property. The term does not include a power of attorney.

(14) "Powerholder" means a person in which a donor creates a power of appointment.

(15) "Presently exercisable power of appointment" means a power of appointment exercisable by the powerholder at the relevant time. The term:

(a) Includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified time only after:

- (i) The occurrence of the specified event;
- (ii) The satisfaction of the ascertainable standard; or
- (iii) The passage of the specified time; and

(b) Does not include a power exercisable only at the powerholder's death.

(16) "Specific-exercise clause" means a clause in an instrument which specifically refers to and exercises a particular power of appointment.

(17) "Taker in default of appointment" means a person that takes all or part of the appointive property to the extent the powerholder does not effectively exercise the power of appointment.

(18) "Terms of the instrument" means the manifestation of the intent of the maker of the instrument regarding the instrument's provisions as expressed in the instrument or as may be established by other evidence that would be admissible in a legal proceeding.

NEW SECTION. Sec. 3103. GOVERNING LAW. Unless the terms of the instrument creating a power of appointment manifest a contrary intent:

(1) The creation, revocation, or amendment of the power is governed by the law of the donor's domicile at the time the action is taken; and

(2) The exercise, release, lapse, or disclaimer of the power, or the revocation or amendment of the exercise, release, lapse, or disclaimer of the power, is governed by the law of the powerholder's domicile at the time the action is taken.

NEW SECTION. Sec. 3104. COMMON LAW AND PRINCIPLES OF EQUITY. The common law and principles of equity supplement this chapter, except to the extent modified by this chapter or law of this state other than this chapter.

ARTICLE 2

CREATION, REVOCATION, AND AMENDMENT OF POWER OF APPOINTMENT

NEW SECTION. Sec. 3201. CREATION OF POWER OF APPOINTMENT. (1) A power of appointment is created only if:

- (a) The instrument creating the power:
 - (i) Is valid under applicable law; and
 - (ii) Except as otherwise provided in subsection (2) of this section, transfers the appointive property; and

(b) The terms of the instrument creating the power manifest the donor's intent to create in a powerholder a power of appointment over the appointive property exercisable in favor of a permissible appointee.

(2) Subsection (1)(a)(ii) of this section does not apply to the creation of a power of appointment by the exercise of a power of appointment.

(3) A power of appointment may not be created in a deceased individual.

(4) Subject to an applicable rule against perpetuities, a power of appointment may be created in an unborn or unascertained powerholder.

NEW SECTION. Sec. 3202. NONTRANSFERABILITY. A powerholder may not transfer a power of appointment. If a powerholder dies without exercising or releasing a power, the power lapses.

NEW SECTION. Sec. 3203. PRESUMPTION OF UNLIMITED AUTHORITY. Subject to section 3205 of this act and RCW 11.95.100 (as recodified by this act) through 11.95.150 (as recodified by this act), and unless the terms of the instrument creating a power of appointment manifest a contrary intent, the power is:

- (1) Presently exercisable;
- (2) Exclusionary; and
- (3) Except as otherwise provided in section 3204 of this act, general.

NEW SECTION. Sec. 3204. EXCEPTION TO PRESUMPTION OF UNLIMITED AUTHORITY. Unless the terms of the instrument creating a power of appointment manifest a contrary intent, the power is nongeneral if:

- (1) The power is exercisable only at the powerholder's death; and
- (2) The permissible appointees of the power are a defined and limited class that does not include the powerholder's estate, the powerholder's creditors, or the creditors of the powerholder's estate.

NEW SECTION. Sec. 3205. RULES OF CLASSIFICATION. (1) In this section, "adverse party" means a person with a substantial beneficial interest in property which would be affected adversely by a powerholder's exercise or nonexercise of a power of appointment in favor of the powerholder, the powerholder's estate, a creditor of the powerholder, or a creditor of the powerholder's estate.

(2) If a powerholder may exercise a power of appointment only with the consent or joinder of an adverse party, the power is nongeneral.

(3) If the permissible appointees of a power of appointment are not defined and limited, the power is exclusionary.

NEW SECTION. Sec. 3206. POWER TO REVOKE OR AMEND. A donor may revoke or amend a power of appointment only to the extent that:

- (1) The instrument creating the power is revocable by the donor; or
- (2) The donor reserves a power of revocation or amendment in the instrument creating the power of appointment.

ARTICLE 3

EXERCISE OF POWER OF APPOINTMENT

NEW SECTION. Sec. 3301. REQUISITES FOR EXERCISE OF POWER OF APPOINTMENT. A power of appointment is exercised only:

- (1) If the instrument exercising the power is valid under applicable law;
- (2) If the terms of the instrument exercising the power:
 - (a) Manifest the powerholder's intent to exercise the power; and
 - (b) Subject to section 3304 of this act, satisfy the requirements of exercise, if any, imposed by the donor; and
- (3) To the extent the appointment is a permissible exercise of the power.

NEW SECTION. Sec. 3302. INTENT TO EXERCISE—DETERMINING INTENT FROM RESIDUARY CLAUSE. (1) In this section:

- (a) "Residuary clause" does not include a residuary clause containing a blanket-exercise clause or a specific-exercise clause.
- (b) "Will" includes a codicil and a testamentary instrument that revises another will.

(2) A residuary clause in a powerholder's will, or a comparable clause in the powerholder's revocable trust, manifests the powerholder's intent to exercise a power of appointment only if:

- (a) The terms of the instrument containing the residuary clause do not manifest a contrary intent;
- (b) The power is a general power exercisable in favor of the powerholder's estate;
- (c) There is no gift-in-default clause or the clause is ineffective; and
- (d) The powerholder did not release the power.

NEW SECTION. Sec. 3303. INTENT TO EXERCISE—AFTER-ACQUIRED POWER. Unless the terms of the instrument exercising a power of appointment manifest a contrary intent:

(1) Except as otherwise provided in subsection (2) of this section, a blanket-exercise clause extends to a power acquired by the powerholder after executing the instrument containing the clause; and

(2) If the powerholder is also the donor of the power, the clause does not extend to the power unless there is no gift-in-default clause or the gift-in-default clause is ineffective.

NEW SECTION. Sec. 3304. SUBSTANTIAL COMPLIANCE WITH DONOR-IMPOSED FORMAL REQUIREMENT. A powerholder's substantial compliance with a formal requirement of appointment imposed by the donor, including a requirement that the instrument exercising the power of appointment make reference or specific reference to the power, is sufficient if:

- (1) The powerholder knows of and intends to exercise the power; and

(2) The powerholder's manner of attempted exercise of the power does not impair a material purpose of the donor in imposing the requirement.

NEW SECTION. Sec. 3305. PERMISSIBLE APPOINTMENT. (1) A powerholder of a general power of appointment that permits appointment to the powerholder or the powerholder's estate may make any appointment, including an appointment in trust or creating a new power of appointment, that the powerholder could make in disposing of the powerholder's own property.

(2) A powerholder of a general power of appointment that permits appointment only to the creditors of the powerholder or of the powerholder's estate may appoint only to those creditors.

(3) Unless the terms of the instrument creating a power of appointment manifest a contrary intent, the powerholder of a nongeneral power may:

(a) Make an appointment in any form, including an appointment in trust, in favor of a permissible appointee;

(b) Create a general power in a permissible appointee;

(c) Create a nongeneral power in any person to appoint to one or more of the permissible appointees of the original nongeneral power; or

(d) Create a nongeneral power in a permissible appointee to appoint to one or more persons if the permissible appointees of the new nongeneral power include the permissible appointees of the original nongeneral power.

NEW SECTION. Sec. 3306. APPOINTMENT TO DECEASED APPOINTEE OR PERMISSIBLE APPOINTEE'S DESCENDANT. (1) Subject to RCW 11.12.110 and 11.12.120, an appointment to a deceased appointee is ineffective.

(2) Unless the terms of the instrument creating a power of appointment manifest a contrary intent, a powerholder of a nongeneral power may exercise the power in favor of, or create a new power of appointment in, a descendant of a deceased permissible appointee whether or not the descendant is described by the donor as a permissible appointee.

NEW SECTION. Sec. 3307. IMPERMISSIBLE APPOINTMENT. (1) Except as otherwise provided in section 3306 of this act, an exercise of a power of appointment in favor of an impermissible appointee is ineffective.

(2) An exercise of a power of appointment in favor of a permissible appointee is ineffective to the extent the appointment is a fraud on the power.

NEW SECTION. Sec. 3308. SELECTIVE ALLOCATION DOCTRINE. If a powerholder exercises a power of appointment in a disposition that also disposes of property the powerholder owns, the owned property and the appointive property must be allocated in the permissible manner that best carries out the powerholder's intent.

NEW SECTION. Sec. 3309. CAPTURE DOCTRINE—DISPOSITION OF INEFFECTIVELY APPOINTED PROPERTY UNDER GENERAL POWER. To the extent a powerholder of a general power of appointment, other than a power to withdraw property from, revoke, or amend a trust, makes an ineffective appointment:

(1) The gift-in-default clause controls the disposition of the ineffectively appointed property; or

(2) If there is no gift-in-default clause or to the extent the clause is ineffective, the ineffectively appointed property:

(a) Passes to:

(i) The powerholder if the powerholder is a permissible appointee and living; or

(ii) If the powerholder is an impermissible appointee or deceased, the powerholder's estate if the estate is a permissible appointee; or

(b) If there is no taker under (a) of this subsection, passes under a reversionary interest to the donor or the donor's transferee or successor in interest.

NEW SECTION. Sec. 3310. DISPOSITION OF UNAPPOINTED PROPERTY UNDER RELEASED OR UNEXERCISED GENERAL POWER. To the extent a powerholder releases or fails to exercise a general power of appointment other than a power to withdraw property from, revoke, or amend a trust:

(1) The gift-in-default clause controls the disposition of the unappointed property; or

(2) If there is no gift-in-default clause or to the extent the clause is ineffective:

(a) Except as otherwise provided in (b) of this subsection, the unappointed property passes to:

(i) The powerholder if the powerholder is a permissible appointee and living; or

(ii) If the powerholder is an impermissible appointee or deceased, the powerholder's estate if the estate is a permissible appointee; or

(b) To the extent the powerholder released the power, or if there is no taker under (a) of this subsection, the unappointed property passes under a reversionary interest to the donor or the donor's transferee or successor in interest.

NEW SECTION. Sec. 3311. DISPOSITION OF UNAPPOINTED PROPERTY UNDER RELEASED OR UNEXERCISED NONGENERAL POWER. To the extent a powerholder releases, ineffectively exercises, or fails to exercise a nongeneral power of appointment:

(1) The gift-in-default clause controls the disposition of the unappointed property; or

(2) If there is no gift-in-default clause or to the extent the clause is ineffective, the unappointed property:

(a) Passes to the permissible appointees if:

(i) The permissible appointees are defined and limited; and

(ii) The terms of the instrument creating the power do not manifest a contrary intent; or

(b) If there is no taker under (a) of this subsection, passes under a reversionary interest to the donor or the donor's transferee or successor in interest.

NEW SECTION. Sec. 3312. DISPOSITION OF UNAPPOINTED PROPERTY IF PARTIAL APPOINTMENT TO TAKER IN DEFAULT. Unless the terms of the instrument creating or exercising a power of appointment manifest a contrary intent, if the powerholder makes a valid partial appointment to a taker in default of appointment, the taker in default of appointment may share fully in unappointed property.

NEW SECTION. Sec. 3313. APPOINTMENT TO TAKER IN DEFAULT. If a powerholder makes an appointment to a taker in default of appointment and the appointee would have taken the property in the same manner and with the same conditions under a gift-in-default clause had the property not been appointed, the power of appointment is deemed not to have been exercised and the appointee takes under the clause.

NEW SECTION. Sec. 3314. POWERHOLDER'S AUTHORITY TO REVOKE OR AMEND EXERCISE. A powerholder may revoke or amend an exercise of a power of appointment only to the extent that:

(1) The powerholder reserves a power of revocation or amendment in the instrument exercising the power of appointment and, if the power is nongeneral, the terms of the instrument creating the power of appointment do not prohibit the reservation; or

(2) The terms of the instrument creating the power of appointment provide that the exercise is revocable or amendable.

NEW SECTION. Sec. 3315. NOTICE OF EXERCISE OF TESTAMENTARY POWER. Unless the person holding property subject to a testamentary power of appointment has within six months after the holder's death received written notice that the powerholder's last will has been admitted to probate or an adjudication of testacy has been entered with respect to the powerholder's last will in some jurisdiction, the person may, until the time the notice is received, transfer the property subject to appointment on the basis that the power has not been effectively exercised.

ARTICLE 4

DISCLAIMER OR RELEASE—CONTRACT TO APPOINT OR NOT TO APPOINT

NEW SECTION. Sec. 3401. DISCLAIMER. As provided by chapter 11.86 RCW:

(1) A powerholder may disclaim all or part of a power of appointment.

(2) A permissible appointee, appointee, or taker in default of appointment may disclaim all or part of an interest in appointive property.

NEW SECTION. Sec. 3402. AUTHORITY TO RELEASE. A powerholder may release a power of appointment, in whole or in part, except to the extent the terms of the instrument creating the power prevent the release.

NEW SECTION. Sec. 3403. METHOD OF RELEASE. A powerholder of a releasable power of appointment may release the power in whole or in part:

(1) By substantial compliance with a method provided in the terms of the instrument creating the power; or

(2) If the terms of the instrument creating the power do not provide a method or the method provided in the terms of the instrument is not expressly made exclusive, by a record manifesting the powerholder's intent by clear and convincing evidence.

NEW SECTION. Sec. 3404. REVOCATION OR AMENDMENT OF RELEASE. A powerholder may revoke or amend a release of a power of appointment only to the extent that:

(1) The instrument of release is revocable by the powerholder; or

(2) The powerholder reserves a power of revocation or amendment in the instrument of release.

NEW SECTION. Sec. 3405. POWER TO CONTRACT—PRESENTLY EXERCISABLE POWER OF APPOINTMENT. A powerholder of a presently exercisable power of appointment may contract:

- (1) Not to exercise the power; or
- (2) To exercise the power if the contract when made does not confer a benefit on an impermissible appointee.

NEW SECTION. Sec. 3406. POWER TO CONTRACT—POWER OF APPOINTMENT NOT PRESENTLY EXERCISABLE. A powerholder of a power of appointment that is not presently exercisable may contract to exercise or not to exercise the power only if the powerholder:

- (1) Is also the donor of the power; and
- (2) Has reserved the power in a revocable trust.

NEW SECTION. Sec. 3407. REMEDY FOR BREACH OF CONTRACT TO APPOINT OR NOT TO APPOINT. The remedy for a powerholder's breach of a contract to appoint or not to appoint appointive property is limited to damages payable out of the appointive property or, if appropriate, specific performance of the contract.

ARTICLE 5

RIGHTS OF POWERHOLDER'S CREDITORS IN APPOINTIVE PROPERTY

NEW SECTION. Sec. 3501. CREDITOR CLAIM—GENERAL POWER CREATED BY POWERHOLDER. (1) In this section, "power of appointment created by the powerholder" includes a power of appointment created in a transfer by another person to the extent the powerholder contributed value to the transfer.

(2) Appointive property subject to a general power of appointment created by the powerholder is subject to a claim of a creditor of the powerholder or of the powerholder's estate to the extent provided in chapter 19.40 RCW.

(3) Subject to subsection (2) of this section, appointive property subject to a general power of appointment created by the powerholder is not subject to a claim of a creditor of the powerholder or the powerholder's estate to the extent the powerholder irrevocably appointed the property in favor of a person other than the powerholder or the powerholder's estate.

(4) Subject to subsections (2) and (3) of this section, and notwithstanding the presence of a spendthrift provision or whether the claim arose before or after the creation of the power of appointment, appointive property subject to a general power of appointment created by the powerholder is subject to a claim of a creditor of:

(a) The powerholder, to the same extent as if the powerholder owned the appointive property, if the power is presently exercisable; and

(b) The powerholder's estate, to the extent the estate is insufficient to satisfy the claim and subject to the right of a decedent to direct the source from which liabilities are paid, if the power is exercisable at the powerholder's death.

NEW SECTION. Sec. 3502. CREDITOR CLAIM—GENERAL POWER NOT CREATED BY POWERHOLDER. (1) Except as otherwise provided in

subsection (2) of this section, appointive property subject to a general power of appointment created by a person other than the powerholder is subject to a claim of a creditor of:

(a) The powerholder, to the extent the powerholder's property is insufficient, if the power is presently exercisable; and

(b) The powerholder's estate, to the extent the estate is insufficient, subject to the right of a decedent to direct the source from which liabilities are paid.

(2) Subject to section 3504(3) of this act, a power of appointment created by a person other than the powerholder which is subject to an ascertainable standard relating to an individual's health, education, support, or maintenance within the meaning of 26 U.S.C. Sec. 2041(b)(1)(A) or 26 U.S.C. Sec. 2514(c)(1), on the effective date of this section, is treated for purposes of sections 3501 through 3504 of this act as a nongeneral power.

NEW SECTION. Sec. 3503. POWER TO WITHDRAW. (1) For purposes of sections 3501 through 3504 of this act, and except as otherwise provided in subsection (2) of this section, a power to withdraw property from a trust is treated, during the time the power may be exercised, as a presently exercisable general power of appointment to the extent of the property subject to the power to withdraw.

(2) On the lapse, release, or waiver of a power to withdraw property from a trust, the power is treated as a presently exercisable general power of appointment only to the extent the value of the property affected by the lapse, release, or waiver exceeds the greater of the amount specified in 26 U.S.C. Sec. 2041(b)(2) and 26 U.S.C. Sec. 2514(e) or the amount specified in 26 U.S.C. Sec. 2503(b), on the effective date of this section.

NEW SECTION. Sec. 3504. CREDITOR CLAIM—NONGENERAL POWER. (1) Except as otherwise provided in subsections (2) and (3) of this section, appointive property subject to a nongeneral power of appointment is exempt from a claim of a creditor of the powerholder or the powerholder's estate.

(2) Appointive property subject to a nongeneral power of appointment is subject to a claim of a creditor of the powerholder or the powerholder's estate to the extent that the powerholder owned the property and, reserving the nongeneral power, transferred the property in violation of chapter 19.40 RCW.

(3) If the initial gift in default of appointment is to the powerholder or the powerholder's estate, a nongeneral power of appointment is treated for purposes of this section and sections 3501 through 3503 of this act as a general power.

ARTICLE 6

MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 3601. 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. 3602. 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. 3603. APPLICATION TO EXISTING RELATIONSHIPS. (1) Except as otherwise provided in this chapter, on and after the effective date of this section:

(a) This chapter applies to a power of appointment created before, on, or after the effective date of this section;

(b) This chapter applies to a judicial proceeding concerning a power of appointment commenced on or after the effective date of this section;

(c) This chapter applies to a judicial proceeding concerning a power of appointment commenced before the effective date of this section unless the court finds that application of a particular provision of this chapter would interfere substantially with the effective conduct of the judicial proceeding or prejudice a right of a party, in which case the particular provision of this chapter does not apply and the superseded law applies;

(d) A rule of construction or presumption provided in this chapter applies to an instrument executed before the effective date of this section unless there is a clear indication of a contrary intent in the terms of the instrument; and

(e) Except as otherwise provided in (a) through (d) of this subsection, an action done before the effective date of this section is not affected by this chapter.

(2) If a right is acquired, extinguished, or barred on the expiration of a prescribed period that commenced under law of this state other than this chapter before the effective date of this section, the law continues to apply to the right.

Sec. 3604. RCW 11.12.110 and 2005 c 97 s 2 are each amended to read as follows:

Unless otherwise provided, when any property shall be given or any appointee appointed under a will, or under a trust of which the decedent is a grantor and which by its terms becomes irrevocable upon or before the grantor's death, to any issue of a grandparent of the decedent and that issue dies before the decedent, or dies before that issue's interest is no longer subject to a contingency, leaving descendants who survive the decedent, those descendants shall take that property or appointment as the predeceased issue would have done if the predeceased issue had survived the decedent. If those descendants are all in the same degree of kinship to the predeceased issue they shall take equally or, if of unequal degree, then those of more remote degree shall take by representation with respect to the predeceased issue.

Sec. 3605. RCW 11.12.120 and 1999 c 42 s 604 are each amended to read as follows:

(1) If a will makes a gift to a person on the condition that the person survive the testator and the person does not survive the testator, then, unless otherwise provided, the gift lapses and falls into the residue of the estate to be distributed under the residuary clause of the will, if any, but otherwise according to the laws of descent and distribution.

(2) If the will gives the residue to two or more persons, the share of a person who does not survive the testator passes, unless otherwise provided, and subject to RCW 11.12.110, to the other person or persons receiving the residue, in proportion to the interest of each in the remaining part of the residue.

(3) The personal representative of the testator, a person who would be affected by the lapse or distribution of a gift under this section, or a guardian ad litem or other representative appointed to represent the interests of a person so affected may petition the court for a determination under this section, and the petition must be heard under the procedures of chapter 11.96A RCW.

(4) For purposes of this section, the appointment of an appointee under a will is a gift and may form part of the residue.

Sec. 3606. RCW 11.95.110 and 1993 c 339 s 8 are each amended to read as follows:

If the holder of a lifetime or testamentary power of appointment may exercise the power in his or her own favor only for his or her health, education, support, or maintenance as described in section 2041 or 2514 of the Internal Revenue Code and the applicable regulations adopted under that section, then a provision of the instrument creating the power of appointment that purports to confer "absolute," "sole," "complete," "conclusive," or a similar discretion shall be disregarded in the exercise of that power in favor of the holder, and that power may then only be exercised reasonably and in accordance with the ascertainable standards set forth in RCW 11.95.100 (as recodified by this act) and this section. A person who has the right to remove or replace a trustee does not possess nor may the person be deemed to possess, by virtue of having that right, the power of the trustee who is subject to removal or to replacement.

Sec. 3607. RCW 11.95.120 and 1993 c 339 s 9 are each amended to read as follows:

Notwithstanding any provision of RCW 11.95.100 through 11.95.150 (as recodified by this act) seemingly to the contrary, RCW 11.95.100 through 11.95.150 (as recodified by this act) do not limit or restrict the distribution of income of a trust that qualifies or that otherwise could have qualified for the marital deduction under section 2056 or 2523 of the Internal Revenue Code, those Internal Revenue Code sections requiring that all income be distributed to the spouse of the decedent or of the trustor at least annually, whether or not an election was in fact made under section 2056(b)(7) or 2523(f) of the Internal Revenue Code. Further, RCW 11.95.100 through 11.95.150 (as recodified by this act) do not limit or restrict the power of a spouse of the trustor or the spouse of the decedent to exercise a power of appointment described in section 2056(b)(5) or 2523(e) of the Internal Revenue Code with respect to that portion of the trust that could otherwise qualify for the marital deduction under either of those Internal Revenue Code sections.

Sec. 3608. RCW 11.95.130 and 1993 c 339 s 10 are each amended to read as follows:

RCW 11.95.100 through 11.95.150 (as recodified by this act) do not raise an inference that the law of this state prior to July 25, 1993, was different than contained in RCW 11.95.100 through 11.95.150 (as recodified by this act).

Sec. 3609. RCW 11.95.140 and 1999 c 42 s 617 are each amended to read as follows:

(1)(a) RCW 11.95.100 and 11.95.110 (as recodified by this act) respectively apply to a power of appointment created:

(i) Under a will, codicil, trust agreement, or declaration of trust, deed, power of attorney, or other instrument executed after July 25, 1993, unless the terms of

the instrument refer specifically to RCW 11.95.100 or 11.95.110 (as recodified by this act) respectively and provide expressly to the contrary; or

(ii) Under a testamentary trust, trust agreement, or declaration of trust executed before July 25, 1993, unless:

(A) The trust is revoked, or amended to provide otherwise, and the terms of any amendment specifically refer to RCW 11.95.100 or 11.95.110 (as recodified by this act), respectively, and provide expressly to the contrary;

(B) All parties in interest, as defined in RCW 11.98.240(3), elect affirmatively, in the manner prescribed in RCW 11.98.240(4), not to be subject to the application of this subsection. The election must be made by the later of September 1, 2000, or three years after the date on which the trust becomes irrevocable; or

(C) A person entitled to judicial proceedings for a declaration of rights or legal relations under RCW 11.96A.080 obtains a judicial determination that the application of this subsection (1)(a)(ii) to the trust is inconsistent with the provisions or purposes of the will or trust.

(b) Notwithstanding (a) of this subsection, for the purposes of this section a codicil to a will, an amendment to a trust, or an amendment to another instrument that created the power of appointment in question shall not be deemed to cause that instrument to be executed after July 25, 1993, unless the codicil or amendment clearly shows an intent to have RCW 11.95.100 or 11.95.110 (as recodified by this act) apply.

(2) Notwithstanding subsection (1) of this section, RCW 11.95.100 through 11.95.150 (as recodified by this act) shall apply to a power of appointment created under a will, codicil, trust agreement, or declaration of trust, deed, power of attorney, or other instrument executed prior to July 25, 1993, if the person who created the power of appointment had on July 25, 1993, the power to revoke, amend, or modify the instrument creating the power of appointment, unless:

(a) The terms of the instrument specifically refer to RCW 11.95.100 or 11.95.110 (as recodified by this act) respectively and provide expressly to the contrary; or

(b) The person creating the power of appointment was not competent, on July 25, 1993, to revoke, amend, or modify the instrument creating the power of appointment and did not regain his or her competence to revoke, amend, or modify the instrument creating the power of appointment on or before his or her death or before the time at which the instrument could no longer be revoked, amended, or modified by the person.

(3) For purposes of this section, a reference in an instrument to:

(a) RCW 11.95.100 is a reference to RCW 11.95.100 (as recodified by this act); and

(b) RCW 11.95.110 is a reference to RCW 11.95.110 (as recodified by this act).

Sec. 3610. RCW 11.95.150 and 1993 c 339 s 12 are each amended to read as follows:

RCW 11.95.100 through 11.95.140 (as recodified by this act) neither create a new cause of action nor impair an existing cause of action that, in either case, relates to a power that was exercised before July 25, 1993. RCW 11.95.100 through 11.95.140 (as recodified by this act) neither create a new cause of action

nor impair an existing cause of action that in either case relates to a power proscribed, limited, or qualified under RCW 11.95.100 through 11.95.140 (as recodified by this act).

Sec. 3611. RCW 11.97.010 and 2013 c 272 s 7 are each amended to read as follows:

The trustor of a trust may by the provisions of the trust relieve the trustee from any or all of the duties, restrictions, and liabilities which would otherwise be imposed by chapters (~~((11.95))~~) 11.--- (the new chapter created in section 3615 of this act), 11.98, 11.100, and (~~((11.104A))~~) 11.--- (the new chapter created in section 2808 of this act) RCW and RCW 11.106.020, or may alter or deny any or all of the privileges and powers conferred by those provisions; or may add duties, restrictions, liabilities, privileges, or powers to those imposed or granted by those provisions. If any specific provision of those chapters is in conflict with the provisions of a trust, the provisions of the trust control whether or not specific reference is made in the trust to any of those chapters, except as provided in RCW 6.32.250, 11.96A.190, 19.36.020, 11.98.002, 11.98.200 through 11.98.240, 11.98.072(1), 11.95.100 (as recodified by this act) through 11.95.150 (as recodified by this act), and chapter 11.103 RCW. In no event may a trustee be relieved of the duty to act in good faith and with honest judgment. Notwithstanding the breadth of discretion granted to a trustee in the terms of the trust, including the use of such terms as "absolute," "sole," or "uncontrolled," the trustee must exercise a discretionary power in good faith and in accordance with the terms and purposes of the trust and the interests of the beneficiaries.

Sec. 3612. RCW 11.97.900 and 2003 c 254 s 5 are each amended to read as follows:

This chapter applies to the provisions of chapters (~~((11.95))~~) 11.--- (the new chapter created in section 3615 of this act), 11.98, 11.100, and (~~((11.104A))~~) 11.--- (the new chapter created in section 2808 of this act) RCW and to RCW 11.106.020.

NEW SECTION. Sec. 3613. RCW 11.95.100, 11.95.110, 11.95.120, 11.95.130, 11.95.140, and 11.95.150 are each recodified as sections in chapter 11.--- RCW (the new chapter created in section 3614 of this act).

NEW SECTION. Sec. 3614. The following acts or parts of acts are each repealed:

- (1) RCW 11.95.010 (Releases) and 1985 c 30 s 31;
- (2) RCW 11.95.020 (Releases—Partial releases) and 1985 c 30 s 32;
- (3) RCW 11.95.030 (Releases—Delivery) and 1995 c 91 s 1 & 1985 c 30 s 33;
- (4) RCW 11.95.040 (Releases—Effect of RCW 11.95.010 through 11.95.050 on prior releases) and 1985 c 30 s 34;
- (5) RCW 11.95.060 (Exercise of powers of appointment) and 1989 c 33 s 1 & 1985 c 30 s 36;
- (6) RCW 11.95.070 (Application of chapter—Application of 1984 c 149) and 2006 c 360 s 8 & 1985 c 30 s 37;
- (7) RCW 11.95.160 (Lapse of a power—Intent not to exercise a power—Treatment) and 2006 c 360 s 12; and
- (8) RCW 11.95.900 (Construction—Chapter applicable to state registered domestic partnerships—2009 c 521) and 2009 c 521 s 38.

NEW SECTION. Sec. 3615. CODIFICATION. Sections 3101 through 3603 and 3616 of this act constitute a new chapter in Title 11 RCW.

NEW SECTION. Sec. 3616. EFFECTIVE DATE. Sections 3101 through 3614 of this act take effect January 1, 2022.

PART IV

MISCELLANEOUS PROVISIONS

Sec. 4001. RCW 11.40.140 and 1999 c 42 s 608 are each amended to read as follows:

If the personal representative has a claim against the decedent, the personal representative must present the claim in the manner provided in RCW 11.40.070₂ and ~~((petition the court for))~~ the allowance or rejection~~((The petition must be filed under RCW 11.96A.080))~~ of the claim shall be addressed, resolved, and settled under the procedures provided under chapter 11.96A RCW. This section applies whether or not the personal representative is acting under nonintervention powers.

Sec. 4002. RCW 11.48.120 and 2010 c 8 s 2038 are each amended to read as follows:

Any personal representative may in his or her own name, for the benefit of all ~~((parties))~~ persons interested in the estate, as defined in RCW 11.96A.030(6) relative to a decedent's estate, maintain actions on the bond of a former personal representative of the same estate.

Sec. 4003. RCW 11.48.130 and 1997 c 252 s 58 are each amended to read as follows:

The court may authorize the personal representative, without the necessary nonintervention powers, to compromise and compound any claim owing the estate. Unless the court has restricted the power to compromise or compound claims owing to the estate and except as provided in RCW 11.68.090, a personal representative with nonintervention powers may compromise and compound a claim owing the estate without the intervention of the court.

Sec. 4004. RCW 11.68.041 and 1997 c 252 s 61 are each amended to read as follows:

(1) Advance notice of the hearing on a petition for nonintervention powers referred to in RCW 11.68.011 is not required in those circumstances in which the court is required to grant nonintervention powers under RCW 11.68.011(2) (a) and (b).

(2) In all other cases, if the petitioner wishes to obtain nonintervention powers, the personal representative shall give notice of the petitioner's intention to apply to the court for nonintervention powers to all heirs, all beneficiaries of a gift under the decedent's will, and all persons who have requested, and who are entitled to, notice under RCW 11.28.240, except that:

(a) A person is not entitled to notice if the person has, in writing, either waived notice of the hearing or consented to the grant of nonintervention powers; and

(b) An heir who is not also a beneficiary of a gift under a will is not entitled to notice if the will has been probated and the time for contesting the validity of the will has expired.

(3) The notice required by this section must be either personally served or sent by regular mail at least ten days before the date of the hearing, and proof of mailing of the notice must be by affidavit filed in the cause. The notice must contain the decedent's name, the probate cause number, and the name and address of the personal representative, and must state in substance as follows:

(a) The personal representative has petitioned the superior court of the state of Washington for county, for the entry of an order granting nonintervention powers and a hearing on that petition will be held on , the day of , , at o'clock, . . M.;

(b) The petition for an order granting nonintervention powers has been filed with the court;

(c) Following the entry by the court of an order granting nonintervention powers, the personal representative is entitled to administer and close the decedent's estate without further court intervention or supervision; and

(d) A person entitled to notice has the right to appear at the time of the hearing on the petition for an order granting nonintervention powers and to object to the granting of nonintervention powers to the personal representative.

(4) If notice is not required, or all persons entitled to notice have either waived notice of the hearing or consented to the entry of an order granting nonintervention powers as provided in this section, the court may hear the petition for an order granting nonintervention powers at any time.

Sec. 4005. RCW 11.68.050 and 1997 c 252 s 62 are each amended to read as follows:

(1) If at the time set for the hearing upon a petition for nonintervention powers, any person entitled to notice of the hearing on the petition under RCW 11.68.041 shall appear and object to the granting of nonintervention powers to the personal representative of the estate, the court shall consider the objections, if any, in connection with its determination under RCW 11.68.011(2)(c) of whether a grant of nonintervention powers would be in the best interests of the decedent's beneficiaries.

(2) The nonintervention powers of a personal representative may not be restricted at a hearing on a petition for nonintervention powers in which the court is required to grant nonintervention powers under RCW 11.68.011(2) (a) and (b), unless a will specifies that the nonintervention powers of a personal representative may be restricted when the powers are initially granted. ~~((In all other cases, including without limitation any hearing on a petition that alleges that the personal representative has breached its duties to the beneficiaries of the estate, the court may restrict the powers of the personal representative in such manner as the court determines to be in the best interests of the decedent's beneficiaries.))~~

NEW SECTION. Sec. 4006. A new section is added to chapter 11.68 RCW to read as follows:

A personal representative with nonintervention powers may administer and settle the estate without supervision or intervention by the court except as otherwise provided in this chapter.

NEW SECTION. Sec. 4007. A new section is added to chapter 11.68 RCW to read as follows:

(1) A personal representative with nonintervention powers has the power to construe and interpret the terms of a probated will, except as the probated will or an order of the court may otherwise direct.

(2) Unless otherwise provided in the probated will:

(a) A party, as defined in RCW 11.96A.030, may either petition the court under chapter 11.96A RCW to have an ambiguous provision of a probated will construed by the court or may otherwise address, resolve, and settle the matter under the procedures provided under chapter 11.96A RCW; and

(b) There is a rebuttable presumption that the construction of an ambiguous provision that is made by a personal representative with nonintervention powers is consistent with the intent of the testator.

(3) A party, as defined in RCW 11.96A.030, may commence an action to reform the terms of a will as provided in RCW 11.96A.125.

Sec. 4008. RCW 11.68.065 and 1999 c 42 s 614 are each amended to read as follows:

A beneficiary (~~whose~~) who has not acknowledged in writing that his, her, or its interest in an estate has (~~not~~) been fully paid or distributed may petition the court for an order directing the personal representative to deliver a report of the affairs of the estate signed and verified by the personal representative. The petition may be filed at any time after one year from the day on which the report was last delivered, or, if none, then one year after the order appointing the personal representative. Upon hearing of the petition after due notice as required in RCW 11.96A.110, the court may, for good cause shown, order the personal representative to deliver to the petitioner the report for any period not covered by a previous report. The report for the period shall include such of the following as the court may order: A description of the amount and nature of all property, real and personal, that has come into the hands of the personal representative; a statement of all property collected and paid out or distributed by the personal representative; a statement of claims filed and allowed against the estate and those rejected; any estate, inheritance, or fiduciary income tax returns filed by the personal representative; and such other information as the order may require. This subsection does not limit any power the court might otherwise have at any time during the administration of the estate to require the personal representative to account or furnish other information to any person interested in the estate.

Sec. 4009. RCW 11.68.070 and 2010 c 8 s 2057 are each amended to read as follows:

~~((If any personal representative who has been granted nonintervention powers fails to execute his or her trust faithfully or is subject to removal for any reason specified in RCW 11.28.250 as now or hereafter amended, upon petition of any unpaid creditor of the estate who has filed a claim or any heir, devisee, legatee, or of any person on behalf of any incompetent heir, devisee, or legatee, such petition being supported by affidavit which makes a prima facie showing of cause for removal or restriction of powers, the court shall cite such personal representative to appear before it, and if, upon hearing of the petition it appears that said personal representative has not faithfully discharged said trust or is subject to removal for any reason specified in RCW 11.28.250 as now or hereafter amended, then, in the discretion of the court the powers of the personal representative may be restricted or the personal representative may be removed~~

~~and a successor appointed. In the event the court shall restrict the powers of the personal representative in any manner, it shall endorse the words "Powers restricted" upon the original order of solvency together with the date of said endorsement, and in all such cases the cost of the citation, hearing, and reasonable attorney's fees may be awarded as the court determines-)) (1)(a) A party, as defined in RCW 11.96A.030, may petition the court under chapter 11.96A RCW for a determination that a personal representative:~~

~~(i) Has breached a fiduciary duty;~~

~~(ii) Has exceeded the personal representative's authority;~~

~~(iii) Has abused the personal representative's discretion in exercising a power;~~

~~(iv) Has otherwise failed to execute the trust faithfully;~~

~~(v) Has violated a statute or common law affecting the estate; or~~

~~(vi) Is subject to removal for a reason specified in RCW 11.28.250.~~

~~(b) The petition submitted under (a) of this subsection must allege facts in support of the claim and must be verified or be supported by an affidavit showing facts in support of the claim.~~

~~(2) If the court finds that the personal representative has committed one or more of the acts listed in subsection (1)(a) of this section, the court may order such remedy in law or in equity as it deems appropriate. The remedy may include, but not be limited to, awarding money damages, surcharging the personal representative, directing the personal representative to take a specific action, restricting the powers of the personal representative, removing the personal representative and appointing a successor, and awarding fees and costs under RCW 11.96A.150. If the court restricts the powers of the personal representative, it shall endorse the words "powers restricted" upon the original order granting the personal representative nonintervention powers and upon the letters testamentary or of administration together with the date of the endorsement.~~

Sec. 4010. RCW 11.68.090 and 2011 c 327 s 3 are each amended to read as follows:

~~(1) ((Any personal representative acting under nonintervention powers may borrow money on the general credit of the estate and may mortgage, encumber, lease, sell, exchange, convey, and otherwise have the same powers, and be subject to the same limitations of liability, that a trustee has under chapters 11.98, 11.100, and 11.102 RCW with regard to the assets of the estate, both real and personal, all without an order of court and without notice, approval, or confirmation, and in all other respects administer and settle the estate of the decedent without intervention of court. Except as otherwise specifically provided in this title or by order of court, a personal representative acting under nonintervention powers may exercise the powers granted to a personal representative under chapter 11.76 RCW but is not obligated to comply with the duties imposed on personal representatives by that chapter. A party to such a transaction and the party's successors in interest are entitled to have it conclusively presumed that the transaction is necessary for the administration of the decedent's estate.~~

~~(2) Except as otherwise provided in chapter 11.108 RCW or elsewhere in order to preserve a marital deduction from estate taxes, a testator may by a will relieve the personal representative from any or all of the duties, restrictions, and~~

liabilities imposed: Under common law; by chapters 11.54, 11.56, 11.100, 11.102, and 11.104A RCW; or by RCW 11.28.270 and 11.28.280, 11.68.095, and 11.98.070. In addition, a testator may likewise alter or deny any or all of the privileges and powers conferred by this title, and may add duties, restrictions, liabilities, privileges, or powers to those imposed or granted by this title. If any common law or any statute referenced earlier in this subsection is in conflict with a will, the will controls whether or not specific reference is made in the will to this section. However, notwithstanding the rest of this subsection, a personal representative may not be relieved of the duty to act in good faith and with honest judgment.) Except as otherwise provided in this chapter, a personal representative with nonintervention powers has:

(a) All powers that are granted by common law or statute to a personal representative without nonintervention powers or that a court supervising the settlement and administration of a decedent's estate may grant to a personal representative without nonintervention powers;

(b) The power to borrow money on the general credit of the estate;

(c) The power to mortgage, encumber, lease, sell, exchange, convey, assign, and otherwise transfer the decedent's real and personal property;

(d) The power to perform the decedent's contracts;

(e) The power to determine the persons entitled to the estate; to partition property, sell property, and/or distribute property pro rata or nonpro rata, and otherwise to administer and settle the decedent's estate;

(f) The powers, privileges, and limitations of liability of a trustee under chapters 11.98, 11.100, and 11.102 RCW and under the principles of equity with regard to the assets of the estate, both real and personal;

(g) Any further power appropriate to the exercise or nonexercise of a power granted under this subsection (1); and

(h) The right and authority to exercise the powers under this subsection (1) without an order of the court and without notice to, direction from, approval by, confirmation by, or intervention of any court.

(2) Except as otherwise provided in this chapter, a personal representative with nonintervention powers has the same duties, restrictions, and liabilities as a personal representative without nonintervention powers and shall act for the benefit of all persons interested in the estate, as defined in RCW 11.96A.030(6) relative to a decedent's estate, except that:

(a) A personal representative with nonintervention powers may act without an order of the court and without notice to, direction from, approval by, confirmation by, or intervention of any court;

(b) A personal representative with nonintervention powers has no duty to follow the procedures of RCW 11.76.010 through 11.76.080 or chapter 11.56 RCW; and

(c) A personal representative with nonintervention powers must exercise a discretionary power in good faith, with honest judgment, and in accordance with the terms and purposes of the probated will and the interests of the beneficiaries.

(3) Except as provided in subsection (4) of this section, a testator may by will:

(a) Add to, alter, or deny any or all of the powers and privileges conferred upon the personal representative with nonintervention powers to administer and settle the testator's estate by common law, statute, or the principles of equity; and

(b) Add to, alter, or remove any or all of the duties, restrictions, or liabilities imposed on a personal representative with nonintervention powers relative to the administration and settlement of the testator's estate by common law, statute, or the principles of equity.

(4) No testamentary provisions may limit the effect of RCW 6.32.250, 11.20.080, 11.48.010, 11.48.020 (although without the necessity of any order of a court), 11.48.030, 11.48.140, 11.68.065, 11.68.070, 11.68.080, 11.68.090, 11.76.110, 11.76.150, 11.76.160, 11.76.170, or 11.96A.190, or of chapters 11.36, 11.44, 11.54, and 11.108 RCW or any other laws that preserve a marital deduction from estate taxes; and in no event may a personal representative with nonintervention powers be relieved of the duty to act in good faith, with honest judgment, and in accordance with the terms and purposes of the probated will and the interests of the beneficiaries.

(5) The common law and the principles of equity supplement this chapter.

Sec. 4011. RCW 11.68.095 and 1997 c 252 s 67 are each amended to read as follows:

((AH)) Except as otherwise provided by the probated will or by order of a court, all of the provisions of RCW 11.98.016 regarding the exercise of powers by co-trustees of a trust shall apply to the co-personal representatives of an estate in which the co-personal representatives have been granted nonintervention powers, as if, for purposes of the interpretation of that law, co-personal representatives were co-trustees and an estate were a trust.

NEW SECTION. Sec. 4012. A new section is added to chapter 11.68 RCW to read as follows:

A party to a transaction with a personal representative with nonintervention powers and the party's successors in interest are entitled to have it conclusively presumed that the transaction is necessary for the administration of the decedent's estate.

Sec. 4013. RCW 11.68.100 and 2010 c 8 s 2058 are each amended to read as follows:

(1) When the estate is ready to be closed, the court, upon application by the personal representative who has nonintervention powers, shall ~~((have the authority and it shall be its duty, to))~~ make and cause to be entered a decree ~~((which))~~ that either:

(a) Finds and adjudges that all approved claims ~~((of))~~ against the decedent have been paid, finds and adjudges the heirs of the decedent or those persons entitled to take under ~~((his or her))~~ the decedent's will, and distributes the decedent's property ~~((of the decedent))~~ to the persons entitled ~~((thereto))~~ to it; or

(b) Approves the accounting of the personal representative and settles the estate of the decedent in the manner provided for in the administration of those estates in which the personal representative has not acquired nonintervention powers.

(2) Either decree provided for in this section shall be made after notice given as provided for in the settlement of estates by a personal representative who has not acquired nonintervention powers. The petition for either decree provided for in this section shall state the fees paid or proposed to be paid to the personal representative, ~~((his or her))~~ the personal representative's attorneys, accountants, and appraisers, and any heir, devisee, or legatee whose interest in

the assets of a decedent's estate would be reduced by the payment of said fees shall receive a copy of said petition with the notice of hearing thereon; at the request of the personal representative or any said heir, devisee, or legatee, the court shall, at the time of the hearing on either petition, determine the reasonableness of said fees. The court shall take into consideration all criteria forming the basis for the determination of the amount of such fees as contained in the code of professional responsibility; in determining the reasonableness of the fees charged by any personal representative, accountants, and appraisers the court shall take into consideration the criteria forming the basis for the determination of attorney's fees, to the extent applicable, and any other factors which the court determines to be relevant in the determination of the amount of fees to be paid to such personal representative.

Sec. 4014. RCW 11.68.110 and 2016 c 202 s 8 are each amended to read as follows:

(1) If a personal representative who has acquired nonintervention powers does not apply to the court for either of the final decrees provided for in RCW 11.68.100 as now or hereafter amended, the personal representative shall, when the administration of the estate has been completed, file a declaration that must state as follows:

(a) The date of the decedent's death and the decedent's residence at the time of death;

(b) Whether or not the decedent died testate or intestate;

(c) If the decedent died testate, the date of the decedent's last will and testament and the date of the order probating the will;

(d) That each creditor's claim which was justly due and properly presented as required by law has been paid or otherwise disposed of by agreement with the creditor, and that the amount of ~~((estate)) taxes ((due as the result of the decedent's death))~~ assessable against the estate has been determined, settled, and paid or otherwise provided for;

(e) That the personal representative has completed the administration of the decedent's estate without court intervention, and the estate is ready to be ~~((closed))~~ settled and distributed;

(f) If the decedent died intestate, the names, addresses (if known), and relationship of each heir of the decedent, together with the distributive share of each heir; and

(g) The amount of fees paid or to be paid to each of the following: (i) Personal representative or representatives; (ii) lawyer or lawyers; (iii) appraiser or appraisers; and (iv) accountant or accountants; and that the personal representative believes the fees to be reasonable and does not intend to obtain court approval of the amount of the fees or to submit an estate accounting to the court for approval.

(2) ~~((Subject to the requirement of notice as provided in this section, unless an heir, devisee, or legatee of a decedent petitions the court either for an order requiring the personal representative to obtain court approval of the amount of fees paid or to be paid to the personal representative, lawyers, appraisers, or accountants, or for an order requiring an accounting, or both, within thirty days from the date of filing a declaration of completion of probate, the personal representative will be automatically discharged without further order of the court and the representative's powers will cease thirty days after the filing of the~~

~~declaration of completion of probate, and the declaration of completion of probate shall, at that time, be the equivalent of the entry of a decree of distribution in accordance with chapter 11.76 RCW for all legal intents and purposes.~~

~~(3)) If:~~

~~(a)(i) The personal representative with nonintervention powers files a declaration as specified in subsection (1) of this section;~~

~~(ii) The personal representative provides the notice as required by subsection (4) of this section; and~~

~~(iii) No party, as defined in RCW 11.96A.030, petitions the court under subsection (3) of this section; then:~~

~~(b)(i) The filing of the declaration will be the legal equivalent of the entry of a decree of distribution under chapter 11.76 RCW;~~

~~(ii) The amount of fees paid or to be paid will be deemed reasonable and will be approved;~~

~~(iii) The acts of the personal representative will be approved;~~

~~(iv) The personal representative, and any bond ensuring the proper actions of the personal representative, will be discharged; and~~

~~(v) The estate will be determined to have been properly and fully distributed and settled.~~

~~(3) If the personal representative provides the notice as required by subsection (4) of this section, then, within 30 days following the filing of a declaration of completion of probate under this section, any party, as defined in RCW 11.96A.030, may petition the court under chapter 11.96A RCW to enforce the party's rights, to review the reasonableness of the fees, and/or to compel the personal representative to close the estate under RCW 11.68.100.~~

~~(4) Within five days of the date of the filing of the declaration of completion, the personal representative or the personal representative's lawyer shall mail a copy of the declaration of completion to each ((~~heir, legatee, or devisee of the decedent~~)) party as defined in RCW 11.96A.030, who: (a) Has not waived notice of the filing, in writing, filed in the cause; and (b) either has not received the full amount of the distribution to which the ((~~heir, legatee, or devisee~~)) party is entitled or has a property right that might be affected adversely by the discharge of the personal representative under this section, together with a notice which shall be substantially as follows:~~

CAPTION
OF
CASE

NOTICE OF FILING OF
DECLARATION OF COMPLETION
OF PROBATE

NOTICE IS GIVEN that the attached Declaration of Completion of Probate was filed by the undersigned in the above-entitled court on the day of, (year); unless you ~~((shall file a))~~ petition ~~((in))~~ the above-entitled court ~~((requesting the court to approve))~~ under chapter 11.96A RCW to enforce your rights, to review the reasonableness of the fees, ((or for an accounting, or both, and serve a copy thereof upon)) and/or to compel the personal representative ((or the personal representative's lawyer)) to close the estate under RCW 11.68.100, within thirty days after the date of the filing of the Declaration of Completion of Probate, the ((amount)) schedule of fees ((paid or to be paid)) set forth in the Declaration of Completion of Probate will be deemed reasonable, the acts of the personal representative will be deemed approved and the payment of those fees will be approved, the personal representative (and any bond ensuring the proper action of the personal representative) will be automatically discharged without further order of the court, the estate will be deemed to have been properly and fully distributed and settled, and the Declaration of Completion of Probate will be final and deemed the equivalent of a Decree of Distribution entered under chapter 11.76 RCW.

~~((If you file and serve a petition within the period specified, the undersigned will request the court to fix a time and place for the hearing of your petition, and you will be notified of the time and place thereof, by mail, or personal service, not less than ten days before the hearing on the petition.~~

Dated this day of, (year)))

Personal ~~((Representative))~~
Representative's Name

~~((4))~~ (5) If all ((heirs, devisees, and legatees)) parties as defined in RCW 11.96A.030 of the decedent entitled to notice under this section waive, in writing, the notice required by this section, the personal representative will be automatically discharged without further order of the court and the declaration of completion of probate will become effective as a decree of distribution upon the date of filing thereof. In those instances where the personal representative has been required to furnish bond, and a declaration of completion is filed pursuant to this section, any bond furnished by the personal representative shall be automatically discharged upon the discharge of the personal representative.

Sec. 4015. RCW 11.68.112 and 1997 c 252 s 69 are each amended to read as follows:

If the declaration of completion of probate and the notice of filing of declaration of completion of probate state that the personal representative intends to make final distribution within five business days after the final date on which a ~~((beneficiary could petition for an order to approve fees or to require an accounting))~~ party as defined in RCW 11.96A.030 entitled to notice under RCW 11.68.110 could file a petition under RCW 11.68.110(3), which date is referred to in this section as the "effective date of the declaration of completion," ~~((and))~~ if the notice of filing of declaration of completion of probate sent to each ~~((beneficiary who has not received everything to which that beneficiary is entitled from the decedent's estate))~~ party as defined in RCW 11.96A.030 entitled to notice under RCW 11.68.110 specifies the amount of the minimum distribution to be made to that ~~((beneficiary))~~ party, and if no party as defined in RCW 11.96A.030 entitled to notice under RCW 11.68.110 petitions the court under RCW 11.68.110(3) within 30 days from the date of filing a declaration of completion of probate, the personal representative retains, for five business days following the effective date of the declaration of completion, the power to make the stated minimum distributions. In this case, the personal representative is discharged from all ~~((claims))~~ liability other than ~~((those))~~ any liability relating to the actual distribution of the reserve, at the effective date of the declaration of completion. The personal representative is only discharged from liability for the distribution of the reserve when the whole reserve has been distributed and each beneficiary has received at least the distribution which that beneficiary's notice stated that the beneficiary would receive.

Sec. 4016. RCW 11.68.114 and 1998 c 292 s 203 are each amended to read as follows:

(1) The personal representative retains the powers to: Deal with the taxing authority of any federal, state, or local government; hold a reserve in an amount not to exceed three thousand dollars, for the determination and payment of any additional taxes, interest, and penalties, and of all reasonable expenses related directly or indirectly to such determination or payment; pay from the reserve the reasonable expenses, including compensation for services rendered or goods provided by the personal representative or by the personal representative's employees, independent contractors, and other agents, in addition to any taxes, interest, or penalties assessed by a taxing authority; receive and hold any credit, including interest, from any taxing authority; and distribute the residue of the reserve to the intended beneficiaries of the reserve; if:

(a) In lieu of the statement set forth in RCW 11.68.110(1)(e), the declaration of completion of probate states that:

The personal representative has completed the administration of the decedent's estate without court intervention, and the estate is ready to be closed, except for the determination of taxes and of interest and penalties thereon as permitted under this section;

and

(b) The notice of the filing of declaration of completion of probate must be in substantially the following form:

CAPTION	NOTICE OF FILING OF
OF	DECLARATION OF COMPLETION
CASE	OF PROBATE

NOTICE IS GIVEN that the attached Declaration of Completion of Probate was filed by the undersigned in the above-entitled court on the . . . day of . . . , . . . ; unless you (~~(file a)~~) petition (~~(in)~~) the above-entitled court (~~(requesting the court to approve)~~) under chapter 11.96A RCW to enforce your rights, to review the reasonableness of the fees, ((or for an accounting, or both, and serve a copy thereof upon)) and/or to compel the personal representative (~~(or the personal representative's lawyer)~~) to close the estate under RCW 11.68.100, within thirty days after the date of the filing of the Declaration of Completion of Probate:

(i) The schedule of fees set forth in the Declaration of Completion of Probate will be deemed reasonable and the payment of those fees will be approved;

(ii) The Declaration of Completion of Probate will be final and deemed the equivalent of a Decree of Distribution entered under chapter 11.76 RCW;

(iii) The acts that the personal representative performed before the Declaration of Completion of Probate was filed will be deemed approved, and the personal representative will be automatically discharged without further order of the court with respect to all such acts; and

(iv) The personal representative will retain the power to deal with the taxing authorities, together with \$. . . for the determination and payment of all remaining tax obligations. Only that portion of the reserve that remains after the settlement of any tax liability, and the payment of any expenses associated with such settlement, will be distributed to the persons legally entitled to the reserve. (~~((2) If the requirements in subsection (1) of this section are met, the personal representative is discharged from all claims other than those relating to the settlement of any tax obligations and the actual distribution of the reserve, at the effective date of the declaration of completion.))~~ The personal representative (~~(is)~~) (and any bond ensuring the proper action of the personal representative) will be discharged from liability ((from)) for the settlement of any tax obligations and the distribution of the reserve, and the personal representative's powers will cease, thirty days after the personal representative has mailed to those persons who would have shared in the distribution of the reserve had the reserve remained intact and has filed with the court copies of checks or receipts showing how the reserve was in fact distributed, unless a person with an interest in the reserve petitions the court earlier within the thirty-day period for an order requiring an accounting of the reserve or an order determining

the reasonableness, or lack of reasonableness, of distributions made from the reserve.

.....
Personal Representative's Name

(2) If the requirements in subsection (1) of this section are met and if no party as defined in RCW 11.96A.030 entitled to notice under RCW 11.68.110 petitions the court under chapter 11.96A RCW to enforce the party's rights, to review the reasonableness of the fees, and/or to compel the personal representative to close the estate under RCW 11.68.100, within 30 days from the date of filing a declaration of completion of probate, the personal representative is discharged from all liability other than liability relating to the settlement of any tax obligations and the actual distribution of the reserve, at the final date on which a beneficiary could petition the court under subsection (1) of this section, which date is referred to in this section as the "effective date of the declaration of completion." The personal representative is discharged from liability for the settlement of any tax obligations and the distribution of the reserve, the personal representative's powers cease, and the declaration of completion of probate will be final and deemed the equivalent of a decree of distribution entered under chapter 11.76 RCW with respect to the distribution of the reserve, 30 days after the personal representative has mailed to those persons who would have shared in the distribution of the reserve had the reserve remained intact and has filed with the court copies of checks or receipts showing how the reserve was in fact distributed, unless a person with an interest in the reserve petitions the court earlier within the 30-day period for an order requiring an accounting of the reserve or an order determining the reasonableness, or lack of reasonableness, of distributions made from the reserve. If the personal representative has been required to furnish a bond, any bond furnished by the personal representative is automatically discharged upon the final discharge of the personal representative.

Sec. 4017. RCW 11.68.120 and 2010 c 8 s 2059 are each amended to read as follows:

A personal representative who has acquired nonintervention powers in accordance with this chapter may present a matter, as defined in RCW 11.96A.030, to the court for resolution or for instructions under chapter 11.96A RCW at any time. A personal representative shall not be deemed to have waived ((his or her)) the personal representative's nonintervention powers by seeking or obtaining any order or decree during the course of ((his or her)) the administration of the estate.

Sec. 4018. RCW 11.96A.030 and 2015 c 115 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) "Citation" or "cite" and other similar terms, when required of a person interested in the estate or trust or a party to a petition, means to give notice as required under RCW 11.96A.100. "Citation" or "cite" and other similar terms, when required of the court, means to order, as authorized under RCW 11.96A.020 and 11.96A.060, and as authorized by law.

(2) "Matter" includes any issue, question, or dispute involving:

(a) The determination of any class of creditors, devisees, legatees, heirs, next of kin, or other persons interested in an estate, trust, nonprobate asset, or with respect to any other asset or property interest passing at death;

(b) The direction of a personal representative or trustee to do or to abstain from doing any act in a fiduciary capacity;

(c) The determination of any question arising in the administration of an estate or trust, or with respect to any nonprobate asset, or with respect to any other asset or property interest passing at death, that may include, without limitation, questions relating to: (i) The construction of wills, trusts, community property agreements, and other writings; (ii) a change of personal representative or trustee; (iii) a change of the situs of a trust; (iv) an accounting from a personal representative or trustee; (v) the determination of fees for a personal representative or trustee; or (vi) the powers and duties of a statutory trust (~~(advisor)~~) director or directed trustee of a directed trust under chapter (~~11.98A~~) 11.98B RCW;

(d) The grant to a personal representative or trustee of any necessary or desirable power not otherwise granted in the governing instrument or given by law;

(e) An action or proceeding under chapter 11.84 RCW;

(f) The amendment, reformation, or conformation of a will or a trust instrument to comply with statutes and regulations of the United States internal revenue service in order to achieve qualification for deductions, elections, and other tax requirements, including the qualification of any gift thereunder for the benefit of a surviving spouse who is not a citizen of the United States for the estate tax marital deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a qualified domestic trust under section 2056A of the internal revenue code, the qualification of any gift thereunder as a qualified conservation easement as permitted by federal law, or the qualification of any gift for the charitable estate tax deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a charitable remainder trust;

(g) With respect to any nonprobate asset, or with respect to any other asset or property interest passing at death, including joint tenancy property, property subject to a community property agreement, or assets subject to a pay on death or transfer on death designation:

(i) The ascertaining of any class of creditors or others for purposes of chapter 11.18 or 11.42 RCW;

(ii) The ordering of a qualified person, the notice agent, or resident agent, as those terms are defined in chapter 11.42 RCW, or any combination of them, to do or abstain from doing any particular act with respect to a nonprobate asset;

(iii) The ordering of a custodian of any of the decedent's records relating to a nonprobate asset to do or abstain from doing any particular act with respect to those records;

(iv) The determination of any question arising in the administration under chapter 11.18 or 11.42 RCW of a nonprobate asset;

(v) The determination of any questions relating to the abatement, rights of creditors, or other matter relating to the administration, settlement, or final disposition of a nonprobate asset under this title;

(vi) The resolution of any matter referencing this chapter, including a determination of any questions relating to the ownership or distribution of an individual retirement account on the death of the spouse of the account holder as contemplated by RCW 6.15.020(6);

(vii) The resolution of any other matter that could affect the nonprobate asset; ~~((and))~~

(h) With respect to any custodianship under a uniform transfers to minors act, the determination of any issues subject to court determination under chapter 11.114 RCW; and

(i) The reformation of a will or trust to correct a mistake under RCW 11.96A.125.

(3) "Nonprobate assets" has the meaning given in RCW 11.02.005.

(4) "Notice agent" has the meanings given in RCW 11.42.010.

(5) "Party" or "parties" means ~~((each of the following persons who has an interest in the subject of the particular proceeding and whose name and address are known to, or are reasonably ascertainable by, the petitioner:~~

~~(a) The trustor if living;~~

~~(b) The trustee;~~

~~(c) The personal representative;~~

~~(d) An heir;~~

~~(e) A beneficiary, including devisees, legatees, and trust beneficiaries;~~

~~(f) The surviving spouse or surviving domestic partner of a decedent with respect to his or her interest in the decedent's property;~~

~~(g) A guardian ad litem;~~

~~(h) A creditor;~~

~~(i) Any other person who has an interest in the subject of the particular proceeding;~~

~~(j) The attorney general if required under RCW 11.110.120;~~

~~(k) Any duly appointed and acting legal representative of a party such as a guardian, special representative, or attorney in fact;~~

~~(l) Where applicable, the virtual representative of any person described in this subsection the giving of notice to whom would meet notice requirements as provided in RCW 11.96A.120;~~

~~(m) Any notice agent, resident agent, or a qualified person, as those terms are defined in chapter 11.42 RCW;~~

~~(n) The owner or the personal representative of the estate of the deceased owner of the nonprobate asset that is the subject of the particular proceeding, if the subject of the particular proceeding relates to the beneficiary's liability to a decedent's estate or creditors under RCW 11.18.200; and~~

(o) A statutory trust advisor or directed trustee of a directed trust under chapter 11.98A RCW)) any person who has a legal or equitable interest in, or who holds a power or a claim with respect to, the subject of a matter. Each of the terms "party" or "parties" must be construed liberally in its context to fulfill the purposes of the procedural rules contained in this chapter as supplemented by the court rules and to promote justice, without creating new substantive rights that do not otherwise exist under the laws of this state or principles of equity, and may include without limitation the following:

(a) With respect to any property held subject to a revocable trust:

(i) Each trustee of the property subject to the trust; and

- (ii) Each trustor who transferred the property;
- (b) With respect to any property held subject to an irrevocable trust:
 - (i) Each trustee of the trust holding the property;
 - (ii) Each qualified beneficiary, as defined in RCW 11.98.002, of the property subject to the trust and any other beneficiary whose interest is protected under the constitutional principles of due process; and
 - (iii) Each holder of a power relating to the property;
- (c) With respect to any testate property:
 - (i) Each personal representative appointed to execute the will governing that property;
 - (ii) Each devisee or legatee of that testate property;
 - (iii) Each holder of a power relating to the testate property following the testator's death; and
 - (iv) Each creditor whose claim has been established by allowance or judgment;
 - (d) With respect to any intestate property:
 - (i) Each personal representative appointed to administer that property;
 - (ii) Each heir of the decedent who owned that property;
 - (iii) Each holder of a power relating to the intestate property following the owner's death; and
 - (iv) Each creditor whose claim has been established by allowance or judgment;
 - (e) With respect to any nonprobate asset, or with respect to any other asset or property interest passing at death, including joint tenancy property, property subject to a community property agreement, or assets subject to a pay on death or transfer on death designation:
 - (i) Each custodian of the property;
 - (ii) Each transferee and beneficiary of the property; and
 - (iii) Each qualified person, the notice agent, or resident agent, as those terms are defined in chapter 11.42 RCW;
 - (f) With respect to any custodial property subject to a uniform transfers to minors act:
 - (i) Each custodian of the custodial property;
 - (ii) The minor, as defined in RCW 11.114.010, for whose benefit the custodian holds the custodial property; and
 - (iii) Each other person who holds a power under chapter 11.114 RCW to act on behalf of the minor;
 - (g) With respect to any community property, each spouse;
 - (h) With respect to a matter relating to the powers and duties of a trust director or a directed trustee, or both:
 - (i) Each trust director with an interest in the matter;
 - (ii) Each directed trustee;
 - (iii) Each beneficiary, holder of a power, or other person whose interest or power is affected by the matter and is protected under the constitutional principles of due process;
 - (i) Each creditor whose claim has been allowed but has not been paid;
 - (j) The attorney general to the extent that the attorney general is a necessary and proper party under RCW 11.110.120 and corresponding common law;

(k) Each person who claims a legal right, title, or interest in property being subjected to probate or trust administration, nonprobate assets, other property passing at death, or custodial property, including without limitation the resolution of rights and duties under RCW 11.18.200 and questions relating to legal ownership or abatement; and

(l) When necessary, a party's representative or representatives, which may include without limitation guardians; custodians; guardians ad litem; special representatives; virtual representatives; attorneys in fact; fiduciaries; and notice agents, resident agents, and qualified persons, as those terms are defined in chapter 11.42 RCW.

(6) "Persons interested in the estate ((or trust" means the trustor, if living, all persons beneficially interested in the estate or trust, persons holding powers over the trust or estate assets, the attorney general in the case of any charitable trust where the attorney general would be a necessary party to judicial proceedings concerning the trust, and any personal representative or trustee of the estate or trust)), trust, nonprobate asset, other property passing at death, or custodial property" means all persons legally or beneficially interested in the estate, trust, nonprobate asset, other property passing at death, or custodial property; all persons holding powers with respect to the trust, estate, nonprobate asset, other property passing at death, or custodial property; the attorney general in the case of any charitable trust where the attorney general would be a necessary party to judicial proceedings concerning the trust; all fiduciaries of the estate, trust, nonprobate asset, or other property passing at death; and all custodians of custodial property.

(7) ("Representative" and other similar terms refer to a person who virtually represents another under RCW 11.96A.120.

(8)) "Trustee" means any acting and qualified trustee of the trust.

(8) "Virtual representative" and other similar terms refer to a person who virtually represents another under RCW 11.96A.120 or other applicable law.

Sec. 4019. RCW 11.96A.110 and 2011 c 327 s 8 are each amended to read as follows:

(1) Subject to RCW 11.96A.160, in all judicial proceedings under this title that require notice, the notice must be personally served on or mailed to all parties or the parties' legal or virtual representatives and to any other persons to whom notice may be required under applicable law at least twenty days before the hearing on the petition unless a different period is provided by statute or ordered by the court. The date of service shall be determined under the rules of civil procedure. Notwithstanding the foregoing, notice that is provided in an electronic transmission and electronically transmitted complies with this section if the party receiving notice has previously consented in a record delivered to the party giving notice to receiving notice by electronic transmission. Consent to receive notice by electronic transmission may be revoked at any time by a record delivered to the party giving notice. Consent is deemed revoked if the party giving notice is unable to electronically transmit two consecutive notices given in accordance with the consent.

(2) Proof of the service, mailing, or electronic delivery required in this section must be made by affidavit or declaration filed at or before the hearing.

(3) For the purposes of this title, the terms "electronic transmission" and "electronically transmitted" have the same meaning as set forth in RCW 23B.01.400.

Sec. 4020. RCW 11.96A.220 and 1999 c 42 s 402 are each amended to read as follows:

RCW 11.96A.210 through 11.96A.250 shall be applicable to the resolution of any matter, as defined by RCW 11.96A.030, other than matters subject to chapter 11.88 or 11.92 RCW, or a trust for a minor or other incapacitated person created at its inception by the judgment or decree of a court unless the judgment or decree provides that RCW 11.96A.210 through 11.96A.250 shall be applicable. If all parties agree to a resolution of any such matter, then the agreement shall be evidenced by a written agreement signed by all parties. Subject to the provisions of RCW 11.96A.240, the written agreement shall be binding and conclusive on all persons interested in the estate ((~~est~~)), trust, nonprobate asset, other property passing at death, or custodial property. The agreement shall identify the subject matter of the dispute and the parties. If the agreement or a memorandum of the agreement is to be filed with the court under RCW 11.96A.230, the agreement may, but need not, include provisions specifically addressing jurisdiction, governing law, the waiver of notice of the filing as provided in RCW 11.96A.230, and the discharge of any special representative who has acted with respect to the agreement.

If a party who virtually represents another under RCW 11.96A.120 signs the agreement, then the party's signature constitutes the signature of all persons whom the party virtually represents, and all the virtually represented persons shall be bound by the agreement.

Sec. 4021. RCW 11.96A.220 and 2020 c 312 s 718 are each amended to read as follows:

RCW 11.96A.210 through 11.96A.250 shall be applicable to the resolution of any matter, as defined by RCW 11.96A.030, other than matters subject to chapter 11.130 RCW, or a trust for a minor or other incapacitated person created at its inception by the judgment or decree of a court unless the judgment or decree provides that RCW 11.96A.210 through 11.96A.250 shall be applicable. If all parties agree to a resolution of any such matter, then the agreement shall be evidenced by a written agreement signed by all parties. Subject to the provisions of RCW 11.96A.240, the written agreement shall be binding and conclusive on all persons interested in the estate ((~~est~~)), trust, nonprobate asset, other property passing at death, or custodial property. The agreement shall identify the subject matter of the dispute and the parties. If the agreement or a memorandum of the agreement is to be filed with the court under RCW 11.96A.230, the agreement may, but need not, include provisions specifically addressing jurisdiction, governing law, the waiver of notice of the filing as provided in RCW 11.96A.230, and the discharge of any special representative who has acted with respect to the agreement.

If a party who virtually represents another under RCW 11.96A.120 signs the agreement, then the party's signature constitutes the signature of all persons whom the party virtually represents, and all the virtually represented persons shall be bound by the agreement.

Sec. 4022. RCW 11.96A.230 and 2001 c 14 s 2 are each amended to read as follows:

(1) Any party, or a party's legal representative, may file the written agreement or a memorandum summarizing the written agreement with the court having jurisdiction over the estate or trust. The agreement or a memorandum of its terms may be filed within thirty days of the agreement's execution by all parties only with the written consent of the special representative. The agreement or a memorandum of its terms may be filed after a special representative has commenced a proceeding under RCW 11.96A.240 only after the court has determined that the special representative has adequately represented and protected the parties represented. Failure to complete any action authorized or required under this subsection does not cause the written agreement to be ineffective and the agreement is nonetheless binding and conclusive on all persons interested in the estate or trust.

(2) On filing the agreement or memorandum, the agreement will be deemed approved by the court and is equivalent to a final court order binding on all persons interested in the estate (~~(or)~~), trust, nonprobate asset, other property passing at death, or custodial property.

Sec. 4023. RCW 11.98.900 and 1985 c 30 s 60 are each amended to read as follows:

(1) The provisions of RCW 11.98.130 through 11.98.160 are applicable to any instrument purporting to create a trust regardless of the date such instrument bears, unless it has been previously adjudicated in the courts of this state.

(2) To the extent that this chapter is in conflict with RCW 11.68.090, RCW 11.68.090 prevails.

Sec. 4024. RCW 11.100.050 and 1985 c 30 s 72 are each amended to read as follows:

(1) The provisions of this chapter govern fiduciaries acting under wills, agreements, court orders, and other instruments effective before or after January 1, 1985.

(2) To the extent that this chapter is in conflict with RCW 11.68.090, RCW 11.68.090 prevails.

Sec. 4025. RCW 11.104A.900 and 2002 c 345 s 602 are each amended to read as follows:

(1) In applying and construing chapter 345, Laws of 2002, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact similar laws.

(2) To the extent that this chapter is in conflict with RCW 11.68.090, RCW 11.68.090 prevails.

Sec. 4026. RCW 11.114.020 and 2006 c 204 s 2 are each amended to read as follows:

(1) This chapter applies to a transfer that refers to this chapter in the designation under RCW 11.114.090(1) by which the transfer is made if at the time of the transfer, the transferor, the minor, or the custodian is a resident of this state or the custodial property is located in this state. The custodianship so created remains subject to this chapter despite a subsequent change in residence of a transferor, the minor, or the custodian, or the removal of custodial property from this state.

(2) A person designated as custodian under this chapter is subject to personal jurisdiction in this state with respect to any matter relating to the custodianship.

(3) A transfer that purports to be made and which is valid under the uniform transfers to minors act, the uniform gifts to minors act, or a substantially similar act of another state is governed by the law of the designated state and may be executed and is enforceable in this state if at the time of the transfer, the transferor, the minor, or the custodian is a resident of the designated state or the custodial property is located in the designated state.

(4) A matter, whether at law or in equity, involving an account established under this chapter ((subject to court determination is governed by the procedures provided in RCW 11.96A.080 through 11.96A.200. However, no guardian ad litem is required for the minor, except under RCW 11.114.190(1), in the case of a petition by an unrepresented minor under the age of eighteen years)) shall be addressed, resolved, and settled under the procedures provided under chapter 11.96A RCW.

NEW SECTION. Sec. 4027. (1) Sections 4003 through 4017, 4023, and 4024 of this act apply to all probate estates, regardless of whether the probate action commenced before or after the effective date of this section.

(2) Section 4026 of this act applies to all accounts established under chapter 11.114 RCW, regardless of whether the account was established before or after the effective date of this section.

NEW SECTION. Sec. 4028. Section 4020 of this act expires January 1, 2022.

NEW SECTION. Sec. 4029. Section 4021 of this act takes effect January 1, 2022.

Passed by the Senate February 10, 2021.

Passed by the House April 8, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 141

[Engrossed Senate Bill 5164]

RESENTENCING—PERSISTENT OFFENDERS—ROBBERY IN THE SECOND DEGREE

AN ACT Relating to resentencing of individuals sentenced as a persistent offender due to a robbery in the second degree conviction; amending RCW 9.94A.345; and creating a new section.

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

NEW SECTION. Sec. 1. (1) In any criminal case wherein an offender has been sentenced as a persistent offender, the offender must have a resentencing hearing if a current or past conviction for robbery in the second degree was used as a basis for the finding that the offender was a persistent offender. The prosecuting attorney for the county in which any offender was sentenced as a persistent offender shall review each sentencing document. If a current or past conviction for robbery in the second degree was used as a basis for a finding that an offender was a persistent offender, the prosecuting attorney shall, or the

offender may, make a motion for relief from sentence to the original sentencing court.

(2) The sentencing court shall grant the motion if it finds that a current or past conviction for robbery in the second degree was used as a basis for a finding that the offender was a persistent offender and shall immediately set an expedited date for resentencing. At resentencing, the court shall sentence the offender as if robbery in the second degree was not a most serious offense at the time the original sentence was imposed.

(3) Notwithstanding the provisions of RCW 9.94A.345, for purposes of resentencing under this section or sentencing any person as a persistent offender after the effective date of this section, robbery in the second degree shall not be considered a most serious offense regardless of whether the offense was committed before, on, or after the effective date of chapter 187, Laws of 2019.

Sec. 2. RCW 9.94A.345 and 2000 c 26 s 2 are each amended to read as follows:

~~((Any))~~ Except as otherwise provided in this chapter, any sentence imposed under this chapter shall be determined in accordance with the law in effect when the current offense was committed.

Passed by the Senate March 1, 2021.

Passed by the House April 7, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 142

[Senate Bill 5177]

SEX OFFENSES—NONMARRIAGE ELEMENT

AN ACT Relating to eliminating proof of nonmarriage as an element of a sex offense; amending RCW 9A.44.050, 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, 9A.44.089, 9A.44.093, 9A.44.096, and 9A.44.100; and declaring an emergency.

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

Sec. 1. RCW 9A.44.050 and 2007 c 20 s 1 are each amended to read as follows:

(1) A person is guilty of rape in the second degree when, under circumstances not constituting rape in the first degree, the person engages in sexual intercourse with another person:

(a) By forcible compulsion;

(b) When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated;

(c) When the victim is a person with a developmental disability and the perpetrator is a person who ~~((is not married to the victim and who))~~:

(i) Has supervisory authority over the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual intercourse occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or

patient consented to the sexual intercourse with the knowledge that the sexual intercourse was not for the purpose of treatment;

(e) When the victim is a resident of a facility for persons with a mental disorder or chemical dependency and the perpetrator is a person who ~~((is not married to the victim and~~) has supervisory authority over the victim; or

(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who ~~((is not married to the victim and who))~~:

(i) Has a significant relationship with the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

(2) Rape in the second degree is a class A felony.

Sec. 2. RCW 9A.44.073 and 1988 c 145 s 2 are each amended to read as follows:

(1) A person is guilty of rape of a child in the first degree when the person has sexual intercourse with another who is less than twelve years old ~~((and not married to the perpetrator))~~ and the perpetrator is at least twenty-four months older than the victim.

(2) Rape of a child in the first degree is a class A felony.

Sec. 3. RCW 9A.44.076 and 1990 c 3 s 903 are each amended to read as follows:

(1) A person is guilty of rape of a child in the second degree when the person has sexual intercourse with another who is at least twelve years old but less than fourteen years old ~~((and not married to the perpetrator))~~ and the perpetrator is at least thirty-six months older than the victim.

(2) Rape of a child in the second degree is a class A felony.

Sec. 4. RCW 9A.44.079 and 1988 c 145 s 4 are each amended to read as follows:

(1) A person is guilty of rape of a child in the third degree when the person has sexual intercourse with another who is at least fourteen years old but less than sixteen years old ~~((and not married to the perpetrator))~~ and the perpetrator is at least forty-eight months older than the victim.

(2) Rape of a child in the third degree is a class C felony.

Sec. 5. RCW 9A.44.083 and 1994 c 271 s 303 are each amended to read as follows:

(1) A person is guilty of child molestation in the first degree when the person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is less than twelve years old ~~((and not married to the perpetrator))~~ and the perpetrator is at least thirty-six months older than the victim.

(2) Child molestation in the first degree is a class A felony.

Sec. 6. RCW 9A.44.086 and 1994 c 271 s 304 are each amended to read as follows:

(1) A person is guilty of child molestation in the second degree when the person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is at least twelve years old but less than fourteen years old ~~((and not married to the perpetrator))~~ and the perpetrator is at least thirty-six months older than the victim.

(2) Child molestation in the second degree is a class B felony.

Sec. 7. RCW 9A.44.089 and 1994 c 271 s 305 are each amended to read as follows:

(1) A person is guilty of child molestation in the third degree when the person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is at least fourteen years old but less than sixteen years old (~~(and not married to the perpetrator)~~) and the perpetrator is at least forty-eight months older than the victim.

(2) Child molestation in the third degree is a class C felony.

Sec. 8. RCW 9A.44.093 and 2009 c 324 s 1 are each amended to read as follows:

(1) A person is guilty of sexual misconduct with a minor in the first degree when: (a) The person has, or knowingly causes another person under the age of eighteen to have, sexual intercourse with another person who is at least sixteen years old but less than eighteen years old (~~(and not married to the perpetrator)~~), if the perpetrator is at least sixty months older than the victim, is in a significant relationship to the victim, and abuses a supervisory position within that relationship in order to engage in or cause another person under the age of eighteen to engage in sexual intercourse with the victim; (b) the person is a school employee who has, or knowingly causes another person under the age of eighteen to have, sexual intercourse with an enrolled student of the school who is at least sixteen years old and not more than twenty-one years old (~~(and not married to the employee)~~), if the employee is at least sixty months older than the student; or (c) the person is a foster parent who has, or knowingly causes another person under the age of eighteen to have, sexual intercourse with his or her foster child who is at least sixteen.

(2) Sexual misconduct with a minor in the first degree is a class C felony.

(3) For the purposes of this section:

(a) "Enrolled student" means any student enrolled at or attending a program hosted or sponsored by a common school as defined in RCW 28A.150.020, or a student enrolled at or attending a program hosted or sponsored by a private school under chapter 28A.195 RCW, or any person who receives home-based instruction under chapter 28A.200 RCW.

(b) "School employee" means an employee of a common school defined in RCW 28A.150.020, or a grade kindergarten through twelve employee of a private school under chapter 28A.195 RCW, who is not enrolled as a student of the common school or private school.

Sec. 9. RCW 9A.44.096 and 2009 c 324 s 2 are each amended to read as follows:

(1) A person is guilty of sexual misconduct with a minor in the second degree when: (a) The person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another person who is at least sixteen years old but less than eighteen years old (~~(and not married to the perpetrator)~~), if the perpetrator is at least sixty months older than the victim, is in a significant relationship to the victim, and abuses a supervisory position within that relationship in order to engage in or cause another person under the age of eighteen to engage in sexual contact with the victim; (b) the person is a school employee who has, or knowingly causes another person under the age of eighteen to have, sexual contact with an enrolled student of the school who is at

least sixteen years old and not more than twenty-one years old (~~(and not married to the employee)~~), if the employee is at least sixty months older than the student; or (c) the person is a foster parent who has, or knowingly causes another person under the age of eighteen to have, sexual contact with his or her foster child who is at least sixteen.

(2) Sexual misconduct with a minor in the second degree is a gross misdemeanor.

(3) For the purposes of this section:

(a) "Enrolled student" means any student enrolled at or attending a program hosted or sponsored by a common school as defined in RCW 28A.150.020, or a student enrolled at or attending a program hosted or sponsored by a private school under chapter 28A.195 RCW, or any person who receives home-based instruction under chapter 28A.200 RCW.

(b) "School employee" means an employee of a common school defined in RCW 28A.150.020, or a grade kindergarten through twelve employee of a private school under chapter 28A.195 RCW, who is not enrolled as a student of the common school or private school.

Sec. 10. RCW 9A.44.100 and 2013 c 94 s 2 are each amended to read as follows:

(1) A person is guilty of indecent liberties when he or she knowingly causes another person to have sexual contact with him or her or another:

(a) By forcible compulsion;

(b) When the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless;

(c) When the victim is a person with a developmental disability and the perpetrator is a person who (~~(is not married to the victim and who)~~):

(i) Has supervisory authority over the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense;

(d) When the perpetrator is a health care provider, the victim is a client or patient, and the sexual contact occurs during a treatment session, consultation, interview, or examination. It is an affirmative defense that the defendant must prove by a preponderance of the evidence that the client or patient consented to the sexual contact with the knowledge that the sexual contact was not for the purpose of treatment;

(e) When the victim is a resident of a facility for persons with a mental disorder or chemical dependency and the perpetrator is a person who (~~(is not married to the victim and)~~) has supervisory authority over the victim; or

(f) When the victim is a frail elder or vulnerable adult and the perpetrator is a person who (~~(is not married to the victim and who)~~):

(i) Has a significant relationship with the victim; or

(ii) Was providing transportation, within the course of his or her employment, to the victim at the time of the offense.

(2)(a) Except as provided in (b) of this subsection, indecent liberties is a class B felony.

(b) Indecent liberties by forcible compulsion is a class A felony.

NEW SECTION. **Sec. 11.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate February 16, 2021.

Passed by the House April 8, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 143

[Engrossed Senate Bill 5220]

SALMON RECOVERY GRANTS—TAXATION

AN ACT Relating to the taxation of salmon recovery grants by updating the state business and occupation tax deduction for these grants, creating a sales and use tax exemption for grant proceeds received by recipients of these grants, and clarifying the sales and use tax obligations for goods and services purchased by recipients of these grants; amending RCW 82.04.4339 and 82.04.050; amending 2020 c 80 s 62 (uncodified); adding a new section to chapter 82.08 RCW; creating a new section; repealing 2020 c 80 s 58; and declaring an emergency.

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

Sec. 1. RCW 82.04.4339 and 2004 c 241 s 1 are each amended to read as follows:

(1) In computing tax there may be deducted from the measure of tax amounts received by a nonprofit organization from the United States or any instrumentality thereof (~~or from~~), the state of Washington or any municipal corporation or political subdivision thereof, or an Indian tribe as defined in RCW 43.06.523, as salmon recovery grants ((to support salmon restoration purposes)).

(2) For the purposes of this section, (~~"nonprofit"~~) the following definitions apply:

(a) "Nonprofit organization" has the same meaning as in RCW 82.04.3651.

(b) "Salmon recovery grant" means, solely for the purposes of this section, financial assistance provided to primarily benefit the public as a whole by renewing, restoring, or protecting, by human intervention, salmon ecosystems or salmon habitats in this state, whether or not such financial assistance furthers the regulatory activities of the grantor.

Sec. 2. RCW 82.04.050 and 2021 c 4 s 3 are each amended to read as follows:

(1)(a) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who:

(i) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, but a purchase for the purpose of resale by a regional transit authority under RCW 81.112.300 is not a sale for resale; or

(ii) Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal

property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(iii) Purchases for the purpose of consuming the property purchased in producing for sale as a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

(iv) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(v) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065; or

(vi) Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (7) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

(b) The term includes every sale of tangible personal property that is used or consumed or to be used or consumed in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property is resold or used as provided in (a)(i) through (vi) of this subsection following such use.

(c) The term also means every sale of tangible personal property to persons engaged in any business that is taxable under RCW 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

(2) The term "sale at retail" or "retail sale" includes the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

(a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of self-service laundry facilities, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;

(b) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and also includes the sale of services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

(c) The constructing, repairing, or improving of any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

(d) The cleaning, fumigating, razing, or moving of existing buildings or structures, but does not include the charge made for janitorial services; and for

purposes of this section the term "janitorial services" means those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

(e) Automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

(f) The furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it is presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it is presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same;

(g) The installing, repairing, altering, or improving of digital goods for consumers;

(h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection may be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section may be construed to modify this subsection.

(3) The term "sale at retail" or "retail sale" includes the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

(a) Abstract, title insurance, and escrow services;

(b) Credit bureau services;

(c) Automobile parking and storage garage services;

(d) Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

(e) Service charges associated with tickets to professional sporting events;

(f) The following personal services: Tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services; and

(g)(i) Operating an athletic or fitness facility, including all charges for the use of such a facility or for any associated services and amenities, except as provided in (g)(ii) of this subsection.

(ii) Notwithstanding anything to the contrary in (g)(i) of this subsection (3), the term "sale at retail" and "retail sale" under this subsection does not include:

(A) Separately stated charges for the use of an athletic or fitness facility where such use is primarily for a purpose other than engaging in or receiving instruction in a physical fitness activity;

(B) Separately stated charges for the use of a discrete portion of an athletic or fitness facility, other than a pool, where such discrete portion of the facility does not by itself meet the definition of "athletic or fitness facility" in this subsection;

(C) Separately stated charges for services, such as advertising, massage, nutritional consulting, and body composition testing, that do not require the customer to engage in physical fitness activities to receive the service. The exclusion in this subsection (3)(g)(ii)(C) does not apply to personal training services and instruction in a physical fitness activity;

(D) Separately stated charges for physical therapy provided by a physical therapist, as those terms are defined in RCW 18.74.010, or occupational therapy provided by an occupational therapy practitioner, as those terms are defined in RCW 18.59.020, when performed pursuant to a referral from an authorized health care practitioner or in consultation with an authorized health care practitioner. For the purposes of this subsection (3)(g)(ii)(D), an authorized health care practitioner means a health care practitioner licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.71, or 18.71A RCW, or, until July 1, 2022, chapter 18.57A RCW;

(E) Rent or association fees charged by a landlord or residential association to a tenant or residential owner with access to an athletic or fitness facility maintained by the landlord or residential association, unless the rent or fee varies depending on whether the tenant or owner has access to the facility;

(F) Services provided in the regular course of employment by an employee with access to an athletic or fitness facility maintained by the employer for use without charge by its employees or their family members;

(G) The provision of access to an athletic or fitness facility by an educational institution to its students and staff. However, charges made by an educational institution to its alumni or other members of the public for the use of any of the educational institution's athletic or fitness facilities are a retail sale under this subsection (3)(g). For purposes of this subsection (3)(g)(ii)(G), "educational institution" has the same meaning as in RCW 82.04.170;

(H) Yoga, chi gong, or martial arts classes, training, or events held at a community center, park, school gymnasium, college or university, hospital or other medical facility, private residence, or any other facility that is not operated within and as part of an athletic or fitness facility.

(iii) Nothing in (g)(ii) of this subsection (3) may be construed to affect the taxation of sales made by the operator of an athletic or fitness facility, where such sales are defined as a retail sale under any provision of this section other than this subsection (3).

(iv) For the purposes of this subsection (3)(g), the following definitions apply:

(A) "Athletic or fitness facility" means an indoor or outdoor facility or portion of a facility that is primarily used for: Exercise classes; strength and conditioning programs; personal training services; tennis, racquetball, handball,

squash, or pickleball; or other activities requiring the use of exercise or strength training equipment, such as treadmills, elliptical machines, stair climbers, stationary cycles, rowing machines, pilates equipment, balls, climbing ropes, jump ropes, and weightlifting equipment.

(B) "Martial arts" means any of the various systems of training for physical combat or self-defense. "Martial arts" includes, but is not limited to, karate, kung fu, tae kwon do, Krav Maga, boxing, kickboxing, jujitsu, shootfighting, wrestling, aikido, judo, hapkido, Kendo, tai chi, and mixed martial arts.

(C) "Physical fitness activities" means activities that involve physical exertion for the purpose of improving or maintaining the general fitness, strength, flexibility, conditioning, or health of the participant. "Physical fitness activities" includes participating in yoga, chi gong, or martial arts.

(4)(a) The term also includes the renting or leasing of tangible personal property to consumers.

(b) The term does not include the renting or leasing of tangible personal property where the lease or rental is for the purpose of sublease or subrent.

(5) The term also includes the providing of "competitive telephone service," "telecommunications service," or "ancillary services," as those terms are defined in RCW 82.04.065, to consumers.

(6)(a) The term also includes the sale of prewritten computer software to a consumer, regardless of the method of delivery to the end user. For purposes of (a) and (b) of this subsection, the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser.

(b) The term "retail sale" does not include the sale of or charge made for:

(i) Custom software; or

(ii) The customization of prewritten computer software.

(c)(i) The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.

(ii)(A) The service described in (c)(i) of this subsection (6) includes the right to access and use prewritten computer software to perform data processing.

(B) For purposes of this subsection (6)(c)(ii), "data processing" means the systematic performance of operations on data to extract the required information in an appropriate form or to convert the data to usable information. Data processing includes check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities.

(7) The term also includes the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement,

otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement. For purposes of this subsection, "sales price" has the same meaning as in RCW 82.08.010.

(8)(a) The term also includes the following sales to consumers of digital goods, digital codes, and digital automated services:

(i) Sales in which the seller has granted the purchaser the right of permanent use;

(ii) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(iii) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(iv) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(b) A retail sale of digital goods, digital codes, or digital automated services under this subsection (8) includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(c) For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

(9) The term also includes the charge made for providing tangible personal property along with an operator for a fixed or indeterminate period of time. A consideration of this is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (9), an operator must do more than maintain, inspect, or set up the tangible personal property.

(10) The term does not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

(11) The term also does not include sales of chemical sprays or washes to persons for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, nor does it include sales of feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials to: (a) Persons who participate in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, and the wildlife habitat incentives program, or their successors administered by the United States department of agriculture; (b) farmers for the purpose of producing for sale any agricultural product; (c) farmers for the purpose of providing bee pollination services; and (d) farmers acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3) of the federal

internal revenue code or the Washington state department of fish and wildlife to produce or improve wildlife habitat on land that the farmer owns or leases.

(12) The term does not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor does the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor does the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development.

(13) The term does not include the sale of or charge made for labor, services, or tangible personal property pursuant to agreements providing maintenance services for bus, rail, or rail fixed guideway equipment when a regional transit authority is the recipient of the labor, services, or tangible personal property, and a transit agency, as defined in RCW 81.104.015, performs the labor or services.

(14) The term does not include the sale for resale of any service described in this section if the sale would otherwise constitute a "sale at retail" and "retail sale" under this section.

(15)(a) The term "sale at retail" or "retail sale" includes amounts charged, however labeled, to consumers to engage in any of the activities listed in this subsection (15)(a), including the furnishing of any associated equipment or, except as otherwise provided in this subsection, providing instruction in such activities, where such charges are not otherwise defined as a "sale at retail" or "retail sale" in this section:

(i)(A) Golf, including any variant in which either golf balls or golf clubs are used, such as miniature golf, hitting golf balls at a driving range, and golf simulators, and including fees charged by a golf course to a player for using his or her own cart. However, charges for golf instruction are not a retail sale, provided that if the instruction involves the use of a golfing facility that would otherwise require the payment of a fee, such as green fees or driving range fees, such fees, including the applicable retail sales tax, must be separately identified and charged by the golfing facility operator to the instructor or the person receiving the instruction.

(B) Notwithstanding (a)(i)(A) of this subsection (15) and except as otherwise provided in this subsection (15)(a)(i)(B), the term "sale at retail" or "retail sale" does not include amounts charged to participate in, or conduct, a golf tournament or other competitive event. However, amounts paid by event participants to the golf facility operator are retail sales under this subsection (15)(a)(i). Likewise, amounts paid by the event organizer to the golf facility are retail sales under this subsection (15)(a)(i), if such amounts vary based on the number of event participants;

(ii) Ballooning, hang gliding, indoor or outdoor sky diving, paragliding, parasailing, and similar activities;

(iii) Air hockey, billiards, pool, foosball, darts, shuffleboard, ping pong, and similar games;

(iv) Access to amusement park, theme park, and water park facilities, including but not limited to charges for admission and locker or cabana rentals. Discrete charges for rides or other attractions or entertainment that are in addition to the charge for admission are not a retail sale under this subsection (15)(a)(iv). For the purposes of this subsection, an amusement park or theme park is a location that provides permanently affixed amusement rides, games, and other entertainment, but does not include parks or zoos for which the primary purpose is the exhibition of wildlife, or fairs, carnivals, and festivals as defined in (b)(i) of this subsection;

(v) Batting cage activities;

(vi) Bowling, but not including competitive events, except that amounts paid by the event participants to the bowling alley operator are retail sales under this subsection (15)(a)(vi). Likewise, amounts paid by the event organizer to the operator of the bowling alley are retail sales under this subsection (15)(a)(vi), if such amounts vary based on the number of event participants;

(vii) Climbing on artificial climbing structures, whether indoors or outdoors;

(viii) Day trips for sightseeing purposes;

(ix) Bungee jumping, zip lining, and riding inside a ball, whether inflatable or otherwise;

(x) Horseback riding offered to the public, where the seller furnishes the horse to the buyer and providing instruction is not the primary focus of the activity, including guided rides, but not including therapeutic horseback riding provided by an instructor certified by a nonprofit organization that offers national or international certification for therapeutic riding instructors;

(xi) Fishing, including providing access to private fishing areas and charter or guided fishing, except that fishing contests and license fees imposed by a government entity are not a retail sale under this subsection;

(xii) Guided hunting and hunting at game farms and shooting preserves, except that hunting contests and license fees imposed by a government entity are not a retail sale under this subsection;

(xiii) Swimming, but only in respect to (A) recreational or fitness swimming that is open to the public, such as open swim, lap swimming, and special events like kids night out and pool parties during open swim time, and (B) pool parties for private events, such as birthdays, family gatherings, and employee outings. Fees for swimming lessons, to participate in swim meets and other competitions, or to join a swim team, club, or aquatic facility are not retail sales under this subsection (15)(a)(xiii);

(xiv) Go-karting, bumper cars, and other motorized activities where the seller provides the vehicle and the premises where the buyer will operate the vehicle;

(xv) Indoor or outdoor playground activities, such as inflatable bounce structures and other inflatables; mazes; trampolines; slides; ball pits; games of tag, including laser tag and soft-dart tag; and human gyroscope rides, regardless of whether such activities occur at the seller's place of business, but not including playground activities provided for children by a licensed child day

care center or licensed family day care provider as those terms are defined in RCW 43.216.010;

(xvi) Shooting sports and activities, such as target shooting, skeet, trap, sporting clays, "5" stand, and archery, but only in respect to discrete charges to members of the public to engage in these activities, but not including fees to enter a competitive event, instruction that is entirely or predominately classroom based, or to join or renew a membership at a club, range, or other facility;

(xvii) Paintball and airsoft activities;

(xviii) Skating, including ice skating, roller skating, and inline skating, but only in respect to discrete charges to members of the public to engage in skating activities, but not including skating lessons, competitive events, team activities, or fees to join or renew a membership at a skating facility, club, or other organization;

(xix) Nonmotorized snow sports and activities, such as downhill and cross-country skiing, snowboarding, ski jumping, sledding, snow tubing, snowshoeing, and similar snow sports and activities, whether engaged in outdoors or in an indoor facility with or without snow, but only in respect to discrete charges to the public for the use of land or facilities to engage in nonmotorized snow sports and activities, such as fees, however labeled, for the use of ski lifts and tows and daily or season passes for access to trails or other areas where nonmotorized snow sports and activities are conducted. However, fees for the following are not retail sales under this subsection (15)(a)(xix): (A) Instructional lessons; (B) permits issued by a governmental entity to park a vehicle on or access public lands; and (C) permits or leases granted by an owner of private timberland for recreational access to areas used primarily for growing and harvesting timber; and

(xx) Scuba diving; snorkeling; river rafting; surfing; kiteboarding; flyboarding; water slides; inflatables, such as water pillows, water trampolines, and water rollers; and similar water sports and activities.

(b) Notwithstanding anything to the contrary in this subsection (15), the term "sale at retail" or "retail sale" does not include charges:

(i) Made for admission to, and rides or attractions at, fairs, carnivals, and festivals. For the purposes of this subsection, fairs, carnivals, and festivals are events that do not exceed twenty-one days and a majority of the amusement rides, if any, are not affixed to real property;

(ii) Made by an educational institution to its students and staff for activities defined as retail sales by (a)(i) through (xx) of this subsection. However, charges made by an educational institution to its alumni or other members of the general public for these activities are a retail sale under this subsection (15). For purposes of this subsection (15)(b)(ii), "educational institution" has the same meaning as in RCW 82.04.170;

(iii) Made by a vocational school for commercial diver training that is licensed by the workforce training and education coordinating board under chapter 28C.10 RCW; or

(iv) Made for day camps offered by a nonprofit organization or state or local governmental entity that provide youth not older than age eighteen, or that are focused on providing individuals with disabilities or mental illness, the opportunity to participate in a variety of supervised activities.

(16)(a) The term "sale at retail" or "retail sale" includes the purchase or acquisition of tangible personal property and specified services by a person who receives either a qualifying grant exempt from tax under RCW 82.04.--- (section 1, chapter 4, Laws of 2021) or 82.16.--- (section 2, chapter 4, Laws of 2021) or a grant deductible under RCW 82.04.4339, except for transactions excluded from the definition of "sale at retail" or "retail sale" by any other provision of this section. Nothing in this subsection (16) may be construed to limit the application of any other provision of this section to purchases by a recipient of either a qualifying grant exempt from tax under RCW 82.04.--- (section 1, chapter 4, Laws of 2021) or a grant deductible under RCW 82.04.4339, or by any other person.

(b) For purposes of this subsection (16), "specified services" means:

(i) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation;

(ii) The clearing of land or the moving of earth, whether or not associated with activities described in (b)(i) of this subsection (16);

(iii) The razing or moving of existing buildings or structures; and

(iv) Landscape maintenance and horticultural services.

NEW SECTION. Sec. 3. A new section is added to chapter 82.08 RCW to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to a grantee's receipt of amounts received as grants that are deductible under RCW 82.04.4339.

(2) Nothing in this section may be construed to:

(a) Imply that the tax levied by RCW 82.08.020 applies to any circumstance not described in subsection (1) of this section; or

(b) Provide an exemption from the tax levied by RCW 82.08.020 for the grantee's use of grant proceeds to acquire products in a transaction meeting the definition of "retail sale" in RCW 82.04.050.

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

(a) "Grantee" means the recipient of a grant deductible under RCW 82.04.4339.

(b) "Product" means the same as in RCW 82.32.023.

NEW SECTION. Sec. 4. 2020 c 80 s 58 is repealed.

Sec. 5. 2020 c 80 s 62 (uncodified) is amended to read as follows: Sections 12 through 57 and 59 of this act take effect July 1, 2022.

NEW SECTION. Sec. 6. The provisions of RCW 82.32.805 and 82.32.808 do not apply to this act.

NEW SECTION. Sec. 7. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 4, 2021.

Passed by the House April 9, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 144

[Substitute Senate Bill 5249]

MASTERY-BASED LEARNING—VARIOUS PROVISIONS

AN ACT Relating to supporting mastery-based learning; amending RCW 28A.655.260; amending 2019 c 252 s 301 (uncodified); creating a new section; providing an effective date; providing expiration dates; and declaring an emergency.

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

Sec. 1. 2019 c 252 s 301 (uncodified) is amended to read as follows:

(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) By December 10, 2021, the work group shall develop a Washington state profile of a graduate describing the cross-disciplinary skills a student should have developed by the time they graduate high school. In developing the profile, the work group shall consult with students, families, and educators who have been underserved by the education system, examples of which include communities of color, English language learners, and students with disabilities. The work group shall seek guidance from the educational opportunity gap oversight and accountability committee regarding how to meaningfully engage with these communities. In addition, the work group shall consult with

representatives from postsecondary education and training programs, labor, and industry, and seek input from the council of presidents and the Washington association of colleges for teacher education.

(5) 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;

(j) One representative from a Washington professional educator standards board-approved teacher preparation program with experience in mastery-based learning as selected by a state association representing teacher preparation programs;

(k) One representative from the professional educator standards board;

(l) One representative from the Washington student achievement council;
and

(m) One representative from the online learning community as selected by the online learning advisory committee of the office of the superintendent of public instruction.

~~((5))~~ (6) 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))~~ second interim report, provided to the same recipients, detailing all findings and recommendations related to the work group's purpose and tasks by December 1, 2020, and a final report, provided to the same recipients, on a profile of a graduate developed under subsection (4) of this section and related recommendations for supporting implementation of mastery-based learning by December 10, 2021; and

(d) Submit the final report on a profile of a graduate developed under subsection (4) of this section to the state board of education by December 10, 2021.

~~((6))~~ (7) This section expires ~~((March 1, 2021))~~ June 30, 2022.

NEW SECTION. Sec. 2. (1) The state board of education shall review the profile of a graduate recommended by the mastery-based learning work group under section 1 of this act. The state board of education may consider modifications to the profile based on public comment and shall submit a report outlining its findings and recommendations to the governor and the education committees of the house of representatives and the senate by December 31, 2022.

(2)(a) As part of the report developed under subsection (1) of this section, the state board of education may submit recommendations to align graduation requirements under RCW 28A.230.090 and 28A.655.250 with the profile of a graduate. Any recommended additional graduation pathway options or changes to graduation pathway options must be established by statute and cannot be added by rule alone.

(b) In developing the recommendations, the state board of education shall consider:

(i) Whether changes to the core subject area requirements, flexible credits, and noncredit requirements should be made and what those changes should be;

(ii) The relationship between credits and core subject area requirements; and

(iii) How the following components of the high school diploma work together as a system of graduation requirements designed to declare that a student is ready for success in postsecondary education, gainful employment, and civic engagement and is equipped with the skills to be a lifelong learner: The high school and beyond plan and the credit and subject area graduation requirements under RCW 28A.230.090 and the graduation pathway options under RCW 28A.655.250.

(3) This section expires December 31, 2023.

Sec. 3. RCW 28A.655.260 and 2019 c 252 s 202 are each amended to read as follows:

(1) The superintendent of public instruction shall collect the following information from school districts: Which of the graduation pathways under RCW 28A.655.250 are available to students at each of the school districts; and the number of students using each graduation pathway for graduation purposes. This information shall be reported annually to the education committees of the legislature beginning January 10, 2021. To the extent feasible, data on student participation in each of the graduation pathways shall be disaggregated by race, ethnicity, gender, and receipt of free or reduced-price lunch.

(2) Beginning August 1, 2019, the state board of education shall ~~((conduct~~ ~~æ))~~ survey ~~((of))~~ interested parties regarding what additional graduation pathways should be added to the existing graduation pathways identified in RCW 28A.655.250 and whether modifications should be made to any of the existing pathways. Interested parties shall include at a minimum: ~~((Representatives))~~ High school students; recent high school graduates; representatives from the state board for community and technical colleges and four-year higher education institutions; representatives from the apprenticeship

and training council; associations representing business; members of the educational opportunity gap oversight and accountability committee; and associations representing educators, school board members, school administrators, superintendents, and parents. The state board of education shall provide ~~((a-report))~~ reports to the education committees of the legislature by August 1, 2020, and December 10, 2022, summarizing the information collected in the surveys.

(3) Using the data reported by the superintendent of public instruction under subsection (1) of this section, the state board of education shall survey a sampling of the school districts unable to provide all of the graduation pathways under RCW 28A.655.250 in order to identify the types of barriers to implementation school districts have. Using the survey results from this subsection and the survey results collected under subsection (2) of this section, the state board of education shall review the existing graduation pathways, suggested changes to those graduation pathways, and the options for additional graduation pathways, and shall provide a report to the education committees of the legislature by December 10, 2022, on the following:

(a) Recommendations on whether changes to the existing pathways should be made and what those changes should be;

(b) The barriers school districts have to offering all of the graduation pathways and recommendations for ways to eliminate or reduce those barriers for school districts;

(c) Whether all students have equitable access to all of the graduation pathways and, if not, recommendations for reducing the barriers students may have to accessing all of the graduation pathways; and

(d) Whether additional graduation pathways should be included and recommendations for what those pathways should be.

NEW SECTION. Sec. 4. 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 March 1, 2021.

Passed by the Senate March 3, 2021.

Passed by the House April 7, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 145

[Engrossed Substitute Senate Bill 5251]

TAXES AND REVENUE—NONSUBSTANTIVE

AN ACT Relating to modifying tax and revenue laws in a manner that is not estimated to affect state or local tax collections, by easing compliance burdens for taxpayers, clarifying ambiguities, making technical corrections, and providing administrative efficiencies; amending RCW 54.28.040, 54.28.055, 82.04.051, 82.04.220, 82.04.2404, 82.04.260, 82.04.261, 82.04.2907, 82.08.0531, 82.08.956, 82.08.9651, 82.08.9999, 82.12.956, 82.12.9651, 82.14.532, 82.29A.090, 82.32.330, 82.32.534, 82.32.805, 84.40.130, 84.52.0531, 84.52.080, and 84.36.385; reenacting and amending RCW 79.64.110; and repealing RCW 82.25.045.

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

Sec. 1. RCW 54.28.040 and 2017 c 323 s 103 are each amended to read as follows:

(1) Before May 1st of each calendar year through calendar year 2018, the department of revenue must compute the tax imposed by this chapter for the last preceding calendar year and notify the district of the amount thereof, which shall be payable on or before the following June 1st.

(2) For tax reporting periods beginning on or after January 1, 2018, taxpayers must report the taxes due under RCW 54.28.020 and 54.28.025 on returns as prescribed by the department of revenue. Except as otherwise provided in this subsection (2), taxes imposed in RCW 54.28.020 and 54.28.025 are due for a taxpayer at the same time as the taxpayer's payment of taxes imposed under chapters 82.04 and 82.16 RCW. The department of revenue may allow taxpayers to report and pay the taxes due under RCW 54.28.020 and 54.28.025 on an annual basis, even if they report taxes imposed under chapters 82.04 and 82.16 RCW more frequently than annually. In such cases, the taxes imposed in RCW 54.28.020 and 54.28.025 are due ~~((at the same time as the taxes under chapters 82.04 and 82.16 RCW for the taxpayer's final reporting period for the calendar year))~~ on or before February 25th of the year immediately following the end of the year for which the taxes are being reported and paid.

(3) The department of revenue may require persons to report such information as needed by the department to administer this chapter.

(4)(a) Upon receipt of the amount of each tax imposed the department of revenue shall deposit the same with the state treasurer, who must deposit four percent of the revenues received under RCW 54.28.020(1) and 54.28.025(1) and all revenues received under RCW 54.28.020(2) and 54.28.025(2) in the general fund of the state and must distribute the remainder in the manner hereinafter set forth. The state treasurer must send a duplicate copy of each transmittal to the department of revenue.

(b) The state treasurer must distribute the taxes collected by the department under this chapter monthly at the same time distributions of local sales and use taxes are made in accordance with chapter 82.14 RCW.

Sec. 2. RCW 54.28.055 and 2017 3rd sp.s. c 28 s 502 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, the department of revenue must instruct the state treasurer to distribute the amount collected under RCW 54.28.025(1) ~~((on the first business day of July))~~ as follows:

(a) Fifty percent to the state general fund for the support of schools; and

(b) Twenty-two percent to the counties, twenty-three percent to the cities, three percent to the fire protection districts, and two percent to the library districts.

(2) Each county, city, fire protection district, and library district must receive a percentage of the amount for distribution to counties, cities, fire protection districts, and library districts, respectively, in the proportion that the population of such district residing within the impacted area bears to the total population of all such districts residing within the impacted area. For the purposes of this chapter, the term "library district" includes only regional libraries, rural county library districts, intercounty rural library districts, and island library districts as those terms are defined in RCW 27.12.010. The

population of a library district, for purposes of such a distribution, does not include any population within the library district and the impact area that also is located within a city or town.

(3) Distributions under this section must be adjusted as follows:

(a) If any distribution pursuant to subsection (1)(b) of this section cannot be made, then that share must be prorated among the state and remaining local districts.

(b) The department of revenue must instruct the state treasurer to adjust distributions under this section, in whole or in part, to account for each county's, city's, fire protection district's, and library district's proportionate share of amounts previously distributed under this section and subsequently refunded to a public utility district under RCW 82.32.060.

(4) All distributions directed by this section to be made on the basis of population must be calculated in accordance with population data as last determined by the office of financial management.

Sec. 3. RCW 79.64.110 and 2019 c 415 s 985 and 2019 c 309 s 1 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 2017-2019 and 2019-2021 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 July 28, 2019, 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 district enrichment levies. With regard to the portion to be distributed to the counties, the department shall certify to the state treasurer the amounts to be distributed within seven working days of receipt of the money. The state treasurer shall distribute funds to the counties four times per month, with no more than ten days between each payment date. The money distributed to the county must be paid, distributed, and prorated to the various other funds in the same manner as general taxes are paid and distributed during the year of payment.

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

Sec. 4. RCW 82.04.051 and 2020 c 109 s 2 are each amended to read as follows:

(1) As used in RCW 82.04.050 and including for the purposes of the taxes imposed in chapter 82.08 RCW in addition to the taxes imposed in this chapter, the term "services rendered in respect to" means, in the context of constructing, building, repairing, improving, and decorating buildings or other structures, those services that are directly related to the constructing, building, repairing, improving, and decorating of buildings or other structures and that are performed by a person who is responsible for the performance of the constructing, building, repairing, improving, or decorating activity. The term does not include services such as engineering, architectural, surveying, flagging, accounting, legal, consulting, land development or management, or administrative services provided to the consumer of, or person responsible for performing, the constructing, building, repairing, improving, or decorating services.

(2) A contract or agreement under which a person is responsible for both services that would otherwise be subject to tax as a service under RCW 82.04.290(2) and also constructing, building, repairing, improving, or decorating activities that would otherwise be subject to tax under another section of this chapter is subject to the tax that applies to the predominant activity under the contract or agreement.

(3) Unless otherwise provided by law, a contract or agreement under which a person is responsible for activities that are subject to tax as a service under

RCW 82.04.290(2), and a subsequent contract or agreement under which the same person is responsible for constructing, building, repairing, improving, or decorating activities subject to tax under another section of this chapter, shall not be combined and taxed as a single activity if at the time of the first contract or agreement it was not contemplated by the parties, as evidenced by the facts, that the same person would be awarded both contracts.

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

(a) "Land development or management" means site identification, zoning, permitting, and other preconstruction regulatory services provided to the consumer of the constructing, building, repairing, improving, or decorating services. This includes, but is not limited to, acting as an owner's representative during any design or construction period, including recommending a contractor, monitoring the budget and schedule, approving invoices, and interacting on the behalf of the consumer with the person who has control over the work itself or responsible for the performance of the work.

(b) "Responsible for the performance" means that the person is obligated to perform the activities, either personally or through a third party. A person who reviews work for a consumer, retailer, or wholesaler but does not supervise or direct the work is not responsible for the performance of the work. A person who is financially obligated for the work, such as a bank, but who does not have control over the work itself is not responsible for the performance of the work.

Sec. 5. RCW 82.04.220 and 2019 c 8 s 103 are each amended to read as follows:

(1) There is levied and collected from every person that has a substantial nexus with this state, as provided in RCW 82.04.067, a tax for the act or privilege of engaging in business activities. The tax is measured by the application of rates against value of products, gross proceeds of sales, or gross income of the business, as the case may be.

(2)(a) A person who establishes or reestablishes a substantial nexus with this state ~~((#))~~ after the first day of the current calendar year under the provisions of RCW 82.04.067 is subject to the tax imposed under this chapter for the current calendar year only on business activity occurring on and after the date that the person established or reestablished a substantial nexus with this state in the current calendar year. ~~((This subsection does not apply to a person who also had a substantial nexus with this state))~~

(b) The provisions of (a) of this subsection do not apply to a person who met any of the criteria in RCW 82.04.067(1) (a) through (c) during the immediately preceding calendar year ((under RCW 82.04.067)), and such person is taxable under this chapter for the current calendar year in its entirety.

Sec. 6. RCW 82.04.2404 and 2017 3rd sp.s. c 37 s 503 are each amended to read as follows:

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

(2) For the purposes of this section "semiconductor materials" means silicon crystals, silicon ingots, raw polished semiconductor wafers, and compound semiconductor wafers.

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

(4) Any person who has claimed the preferential tax rate under this section must reimburse the department for fifty percent of the amount of the tax preference under this section, if(~~(~~

~~(a) The~~) the number of persons employed by the person claiming the tax preference is less than ninety percent of the person's three-year employment average for the three years immediately preceding the year in which the preferential tax rate is claimed(~~(~~

~~(b) The person is subject to a review under section 501(4)(a), chapter 37, Laws of 2017 3rd sp. sess. and such person does not meet performance criteria in section 501(4)(a), chapter 37, Laws of 2017 3rd sp. sess.)).~~

(5) This section expires December 1, 2028.

Sec. 7. RCW 82.04.260 and 2020 c 165 s 3 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of manufacturing:

(a) Wheat into flour, barley into pearl barley, soybeans into soybean oil, canola into canola oil, canola meal, or canola by-products, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business is equal to the value of the flour, pearl barley, oil, canola meal, or canola by-product manufactured, multiplied by the rate of 0.138 percent;

(b) Beginning July 1, 2025, seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; or selling manufactured seafood products that remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing, to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales, multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state;

(c)(i) Except as provided otherwise in (c)(iii) of this subsection, from July 1, 2025, until January 1, 2036, dairy products; or selling dairy products that the person has manufactured to purchasers who either transport in the ordinary course of business the goods out of state or purchasers who use such dairy products as an ingredient or component in the manufacturing of a dairy product; as to such persons the tax imposed is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state or sold to a manufacturer for use as an ingredient or component in the manufacturing of a dairy product.

(ii) For the purposes of this subsection (1)(c), "dairy products" means:

(A) Products, not including any marijuana-infused product, that as of September 20, 2001, are identified in 21 C.F.R., chapter 1, parts 131, 133, and 135, including by-products from the manufacturing of the dairy products, such as whey and casein; and

(B) Products comprised of not less than seventy percent dairy products that qualify under (c)(ii)(A) of this subsection, measured by weight or volume.

(iii) The preferential tax rate provided to taxpayers under this subsection (1)(c) does not apply to sales of dairy products on or after July 1, 2023, where a dairy product is used by the purchaser as an ingredient or component in the manufacturing in Washington of a dairy product;

(d)(i) Beginning July 1, 2025, fruits or vegetables by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, or selling at wholesale fruits or vegetables manufactured by the seller by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables and sold to purchasers who transport in the ordinary course of business the goods out of this state; as to such persons the amount of tax with respect to such business is equal to the value of the products manufactured or the gross proceeds derived from such sales multiplied by the rate of 0.138 percent. Sellers must keep and preserve records for the period required by RCW 82.32.070 establishing that the goods were transported by the purchaser in the ordinary course of business out of this state.

(ii) For purposes of this subsection (1)(d), "fruits" and "vegetables" do not include marijuana, useable marijuana, or marijuana-infused products; and

(e) Wood biomass fuel; as to such persons the amount of tax with respect to the business is equal to the value of wood biomass fuel manufactured, multiplied by the rate of 0.138 percent. For the purposes of this section, "wood biomass fuel" means a liquid or gaseous fuel that is produced from lignocellulosic feedstocks, including wood, forest, or field residue and dedicated energy crops, and that does not include wood treated with chemical preservations such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(2) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business is equal to the value of the peas split or processed, multiplied by the rate of 0.138 percent.

(3) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(4) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed is equal to the gross proceeds derived from such sales multiplied by the rate of 0.138 percent.

(5)(a) Upon every person engaging within this state in the business of acting as a travel agent or tour operator and whose annual taxable amount for the prior calendar year from such business was two hundred fifty thousand dollars or less; as to such persons the amount of the tax with respect to such activities is equal to

the gross income derived from such activities multiplied by the rate of 0.275 percent.

(b) Upon every person engaging within this state in the business of acting as a travel agent or tour operator and whose annual taxable amount for the prior calendar year from such business was more than two hundred fifty thousand dollars; as to such persons the amount of the tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent through June 30, 2019, and 0.9 percent beginning July 1, 2019.

(6) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities is equal to the gross income derived from such activities multiplied by the rate of 0.275 percent.

(7) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business is equal to the gross proceeds derived from such activities multiplied by the rate of 0.275 percent. Persons subject to taxation under this subsection are exempt from payment of taxes imposed by chapter 82.16 RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

(8)(a) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW (~~(43-145.010)~~) 70A.380.010; as to such persons the amount of the tax with respect to such business is equal to the gross income of the business, excluding any fees imposed under chapter (~~(43-200)~~) 70A.384 RCW, multiplied by the rate of 3.3 percent.

(b) If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state must be determined in accordance with the methods of apportionment required under RCW 82.04.460.

(9) Upon every person engaging within this state as an insurance producer or title insurance agent licensed under chapter 48.17 RCW or a surplus line broker licensed under chapter 48.15 RCW; as to such persons, the amount of the tax with respect to such licensed activities is equal to the gross income of such business multiplied by the rate of 0.484 percent.

(10) Upon every person engaging within this state in business as a hospital, as defined in chapter 70.41 RCW, that is operated as a nonprofit corporation or by the state or any of its political subdivisions, as to such persons, the amount of tax with respect to such activities is equal to the gross income of the business multiplied by the rate of 0.75 percent through June 30, 1995, and 1.5 percent thereafter.

(11)(a) Beginning October 1, 2005, upon every person engaging within this state in the business of manufacturing commercial airplanes, or components of such airplanes, or making sales, at retail or wholesale, of commercial airplanes or components of such airplanes, manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of:

(i) 0.4235 percent from October 1, 2005, through June 30, 2007;

(ii) 0.2904 percent beginning July 1, 2007, through March 31, 2020; and

(iii) Beginning April 1, 2020, 0.484 percent, subject to any reduction required under (e) of this subsection (11). The tax rate in this subsection (11)(a)(iii) applies to all business activities described in this subsection (11)(a).

(b) Beginning July 1, 2008, upon every person who is not eligible to report under the provisions of (a) of this subsection (11) and is engaging within this state in the business of manufacturing tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes, or making sales, at retail or wholesale, of such tooling manufactured by the seller, as to such persons the amount of tax with respect to such business is, in the case of manufacturers, equal to the value of the product manufactured and the gross proceeds of sales of the product manufactured, or in the case of processors for hire, be equal to the gross income of the business, multiplied by the rate of:

(i) 0.2904 percent through March 31, 2020; and

(ii) Beginning April 1, 2020, the following rates, which are subject to any reduction required under (e) of this subsection (11):

(A) The rate under RCW 82.04.250(1) on the business of making retail sales of tooling specifically designed for use in manufacturing commercial airplanes or components of such airplanes; and

(B) 0.484 percent on all other business activities described in this subsection (11)(b).

(c) For the purposes of this subsection (11), "commercial airplane" and "component" have the same meanings as provided in RCW 82.32.550.

(d)(i) In addition to all other requirements under this title, a person reporting under the tax rate provided in this subsection (11) must file a complete annual tax performance report with the department under RCW 82.32.534. However, this requirement does not apply to persons reporting under the tax rate in (a)(iii) of this subsection (11), so long as that rate remains 0.484 percent, or under any of the tax rates in (b)(ii)(A) and (B) of this subsection (11), so long as those tax

rates remain the rate imposed pursuant to RCW 82.04.250(1) and 0.484 percent, respectively.

(ii) Nothing in (d)(i) of this subsection (11) may be construed as affecting the obligation of a person reporting under a tax rate provided in this subsection (11) to file a complete annual tax performance report with the department under RCW 82.32.534: (A) Pursuant to another provision of this title as a result of claiming a tax credit or exemption; or (B) pursuant to (d)(i) of this subsection (11) as a result of claiming the tax rates in (a)(ii) or (b)(i) of this subsection (11) for periods ending before April 1, 2020.

(e)(i) After March 31, 2021, the tax rates under (a)(iii) and (b)(ii) of this subsection (11) must be reduced to 0.357 percent provided the conditions in RCW 82.04.2602 are met. The effective date of the rates authorized under this subsection (11)(e) must occur on the first day of the next calendar quarter that is at least sixty days after the department receives the last of the two written notices pursuant to RCW 82.04.2602 (3) and (4).

(ii) Both a significant commercial airplane manufacturer separately and the rest of the aerospace industry as a whole, receiving the rate of 0.357 percent under this subsection (11)(e) are subject to the aerospace apprenticeship utilization rates required under RCW 49.04.220 by April 1, 2026, or five years after the effective date of the 0.357 percent rate authorized under this subsection (11)(e), whichever is later, as determined by the department of labor and industries.

(iii) The provisions of RCW 82.32.805 and 82.32.808 do not apply to this subsection (11)(e).

(f)(i) Except as provided in (f)(ii) of this subsection (11), this subsection (11) does not apply on and after July 1, 2040.

(ii) With respect to the manufacturing of commercial airplanes or making sales, at retail or wholesale, of commercial airplanes, this subsection (11) does not apply on and after July 1st of the year in which the department makes a determination that any final assembly or wing assembly of any version or variant of a commercial airplane that is the basis of a siting of a significant commercial airplane manufacturing program in the state under RCW 82.32.850 has been sited outside the state of Washington. This subsection (11)(f)(ii) only applies to the manufacturing or sale of commercial airplanes that are the basis of a siting of a significant commercial airplane manufacturing program in the state under RCW 82.32.850. This subsection (11)(f)(ii) continues to apply during the time that a person is subject to the tax rate in (a)(iii) of this subsection (11).

(g) For the purposes of this subsection, "a significant commercial airplane manufacturer" means a manufacturer of commercial airplanes with at least fifty thousand full-time employees in Washington as of January 1, 2021.

(12)(a) Until July 1, 2045, upon every person engaging within this state in the business of extracting timber or extracting for hire timber; as to such persons the amount of tax with respect to the business is, in the case of extractors, equal to the value of products, including by-products, extracted, or in the case of extractors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(b) Until July 1, 2045, upon every person engaging within this state in the business of manufacturing or processing for hire: (i) Timber into timber products

or wood products; (ii) timber products into other timber products or wood products; or (iii) products defined in RCW 19.27.570(1); as to such persons the amount of the tax with respect to the business is, in the case of manufacturers, equal to the value of products, including by-products, manufactured, or in the case of processors for hire, equal to the gross income of the business, multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(c) Until July 1, 2045, upon every person engaging within this state in the business of selling at wholesale: (i) Timber extracted by that person; (ii) timber products manufactured by that person from timber or other timber products; (iii) wood products manufactured by that person from timber or timber products; or (iv) products defined in RCW 19.27.570(1) manufactured by that person; as to such persons the amount of the tax with respect to the business is equal to the gross proceeds of sales of the timber, timber products, wood products, or products defined in RCW 19.27.570(1) multiplied by the rate of 0.4235 percent from July 1, 2006, through June 30, 2007, and 0.2904 percent from July 1, 2007, through June 30, 2045.

(d) Until July 1, 2045, upon every person engaging within this state in the business of selling standing timber; as to such persons the amount of the tax with respect to the business is equal to the gross income of the business multiplied by the rate of 0.2904 percent. For purposes of this subsection (12)(d), "selling standing timber" means the sale of timber apart from the land, where the buyer is required to sever the timber within thirty months from the date of the original contract, regardless of the method of payment for the timber and whether title to the timber transfers before, upon, or after severance.

(e) For purposes of this subsection, the following definitions apply:

(i) "Biocomposite surface products" means surface material products containing, by weight or volume, more than fifty percent recycled paper and that also use nonpetroleum-based phenolic resin as a bonding agent.

(ii) "Paper and paper products" means products made of interwoven cellulosic fibers held together largely by hydrogen bonding. "Paper and paper products" includes newsprint; office, printing, fine, and pressure-sensitive papers; paper napkins, towels, and toilet tissue; kraft bag, construction, and other kraft industrial papers; paperboard, liquid packaging containers, containerboard, corrugated, and solid-fiber containers including linerboard and corrugated medium; and related types of cellulosic products containing primarily, by weight or volume, cellulosic materials. "Paper and paper products" does not include books, newspapers, magazines, periodicals, and other printed publications, advertising materials, calendars, and similar types of printed materials.

(iii) "Recycled paper" means paper and paper products having fifty percent or more of their fiber content that comes from postconsumer waste. For purposes of this subsection (12)(e)(iii), "postconsumer waste" means a finished material that would normally be disposed of as solid waste, having completed its life cycle as a consumer item.

(iv) "Timber" means forest trees, standing or down, on privately or publicly owned land. "Timber" does not include Christmas trees that are cultivated by agricultural methods or short-rotation hardwoods as defined in RCW 84.33.035.

(v) "Timber products" means:

(A) Logs, wood chips, sawdust, wood waste, and similar products obtained wholly from the processing of timber, short-rotation hardwoods as defined in RCW 84.33.035, or both;

(B) Pulp, including market pulp and pulp derived from recovered paper or paper products; and

(C) Recycled paper, but only when used in the manufacture of biocomposite surface products.

(vi) "Wood products" means paper and paper products; dimensional lumber; engineered wood products such as particleboard, oriented strand board, medium density fiberboard, and plywood; wood doors; wood windows; and biocomposite surface products.

(f) Except for small harvesters as defined in RCW 84.33.035, a person reporting under the tax rate provided in this subsection (12) must file a complete annual tax performance report with the department under RCW 82.32.534.

(g) Nothing in this subsection (12) may be construed to affect the taxation of any activity defined as a retail sale in RCW 82.04.050(2) (b) or (c), defined as a wholesale sale in RCW 82.04.060(2), or taxed under RCW 82.04.280(1)(g).

(13) Upon every person engaging within this state in inspecting, testing, labeling, and storing canned salmon owned by another person, as to such persons, the amount of tax with respect to such activities is equal to the gross income derived from such activities multiplied by the rate of 0.484 percent.

(14)(a) Upon every person engaging within this state in the business of printing a newspaper, publishing a newspaper, or both, the amount of tax on such business is equal to the gross income of the business multiplied by the rate of 0.35 percent until July 1, 2024, and 0.484 percent thereafter.

(b) A person reporting under the tax rate provided in this subsection (14) must file a complete annual tax performance report with the department under RCW 82.32.534.

Sec. 8. RCW 82.04.261 and 2019 c 336 s 5 are each amended to read as follows:

(1) In addition to the taxes imposed under RCW 82.04.260(12), a surcharge is imposed on those persons who are subject to any of the taxes imposed under RCW 82.04.260(12). Except as otherwise provided in this section, the surcharge is equal to 0.052 percent. The surcharge is added to the rates provided in RCW 82.04.260(12) (a), (b), (c), and (d).

(2) All receipts from the surcharge imposed under this section must be deposited into the forest and fish support account created in RCW 76.09.405, with any receipts above eight million dollars per biennium specifically used as additional funding for tribal participation grants.

(3)(a) The surcharge imposed under this section is suspended if:

(i) Before July 1, 2024, receipts from the surcharge total at least eight million five hundred thousand dollars during any fiscal biennium;

(ii) Between July 1, 2024, ~~((and July))~~ through June 30, 2029, receipts from the surcharge total at least nine million dollars during any fiscal biennium; and

(iii) After ~~((July))~~ June 30, 2029, the receipts from the surcharge total at least nine million five hundred thousand dollars during any fiscal biennium.

(b) The suspension of the surcharge under this subsection (3) takes effect on the first day of the calendar month that is at least thirty days after the end of the month during which the department determines that receipts from the surcharge

total the values specified in this subsection (3) during the fiscal biennium. The surcharge is imposed again at the beginning of the following fiscal biennium.

(4) This section expires July 1, 2045.

Sec. 9. RCW 82.04.2907 and 2015 3rd sp.s. c 5 s 101 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of receiving income from royalties, the amount of tax with respect to the business is equal to the gross income from royalties multiplied by the rate (~~(provided in RCW 82.04.290(2)(a))~~) of 1.5 percent.

(2) For the purposes of this section, "gross income from royalties" means compensation for the use of intangible property, including charges in the nature of royalties, regardless of where the intangible property will be used. For purposes of this subsection, "intangible property" includes copyrights, patents, licenses, franchises, trademarks, trade names, and similar items. "Gross income from royalties" does not include compensation for any natural resource, the licensing of prewritten computer software to the end user, or the licensing of digital goods, digital codes, or digital automated services to the end user as defined in RCW 82.04.190(11).

Sec. 10. RCW 82.08.0531 and 2019 c 8 s 201 are each amended to read as follows:

(1) For purposes of this chapter and chapters 82.04 and 82.12 RCW, a marketplace facilitator is deemed to be an agent of any marketplace seller making retail sales through the marketplace facilitator's marketplace.

(2) Beginning October 1, 2018, marketplace facilitators subject to a tax collection obligation under RCW 82.08.052 (1) or (2) must collect and remit to the department retail sales tax on all taxable retail sales made or facilitated by the marketplace facilitator, whether in its own right or as an agent of a marketplace seller, regardless of whether the marketplace seller is subject to a tax collection obligation under RCW 82.08.052 (1) or (2). Beginning January 1, 2020, the collection obligation of a marketplace facilitator under this chapter also applies to any other taxes and fees, as defined under RCW 82.02.260, that are imposed on a retail sale made or facilitated by the marketplace facilitator, whether in its own right or as an agent of a marketplace seller, regardless of whether the marketplace seller has a tax collection obligation under RCW 82.08.052 (1) or (2).

(3) In addition to other applicable recordkeeping requirements, the department may require a marketplace facilitator to provide or make available to the department any information the department determines is reasonably necessary to enforce the provisions of this chapter and chapter 82.13 RCW. Such information may include documentation of sales made by marketplace sellers through the marketplace facilitator's marketplace . The department may prescribe by rule the form and manner for providing this information.

(4)(a) Beginning July 1, 2019, to ensure that marketplace sellers have the necessary information to timely and accurately file their excise tax returns with the department pursuant to RCW 82.32.045, a marketplace facilitator must, at a minimum, provide each of its marketplace sellers with access, through a written report or other means, to gross sales information for all Washington sales made as an agent of the marketplace seller under this section during the immediately

preceding month. Marketplace facilitators must provide such access within fifteen calendar days following the end of each month.

(b) If a marketplace seller does not receive the gross sales information for all Washington sales through a marketplace facilitator, as required under (a) of this subsection (4), the marketplace seller may determine its business and occupation tax liability under chapter 82.04 RCW based on a reasonable method of estimating Washington sales as may be required or approved by the department.

(c) For purposes of this subsection, "Washington sales" means any sale sourced to this state under RCW 82.32.730, regardless of whether the sale is a retail sale.

(5) If a marketplace facilitator has fully complied with the requirements of subsection (4)(a) of this section, the marketplace facilitator is relieved of liability under this chapter and chapter 82.12 RCW for failure to collect the correct amount of tax to the extent that the marketplace facilitator can show to the department's satisfaction that the error was due to incorrect information given to the marketplace facilitator by the marketplace seller, unless the marketplace facilitator and marketplace seller are affiliated persons. Where the marketplace facilitator is relieved of liability under this subsection (5), the marketplace seller is solely liable for the amount of uncollected tax due.

(6)(a) Subject to the limits in (b) and (c) of this subsection (6), a marketplace facilitator that has fully complied with the requirements of subsection (4)(a) of this section is relieved of liability under this chapter and chapter 82.12 RCW for the failure to collect tax on taxable retail sales to the extent that the marketplace facilitator can show to the department's satisfaction that:

(i) The taxable retail sale was made through the marketplace facilitator's marketplace;

(ii) The taxable retail sale was made solely as the agent of a marketplace seller, and the marketplace facilitator and marketplace seller are not affiliated persons; and

(iii) The failure to collect sales tax was not due to an error in sourcing the sale under RCW 82.32.730.

(b) Liability relief for a marketplace facilitator under (a) of this subsection (6) for a calendar year is limited as follows:

(i) For calendar year 2018, the liability relief may not exceed ten percent of the total tax due under this chapter and chapter 82.12 RCW on taxable retail sales facilitated by the marketplace facilitator as agent of a marketplace seller and sourced to this state under RCW 82.32.730 during the same calendar year.

(ii) For calendar year 2019, the liability relief may not exceed five percent of the total tax due under this chapter and chapter 82.12 RCW on taxable retail sales by the marketplace facilitator as agent of a marketplace seller and sourced to this state under RCW 82.32.730 during the same calendar year.

(iii) The provisions of this subsection (6) do not apply to retail sales made after December 31, 2019.

(c) For purposes of this subsection (6), a retail sale is deemed to be facilitated by a marketplace facilitator when the marketplace facilitator either:

(i) Accepts the order for the product;

(ii) Communicates to the marketplace seller the buyer's offer to purchase the product;

(iii) Accepts the buyer's payment for the product; or

(iv) Delivers or arranges for delivery of the product.

(d) Where the marketplace facilitator (~~(or referrer)~~) is relieved of liability under this subsection (6), the marketplace seller is also relieved of liability for the amount of uncollected tax due, subject to the limitations in subsection (7) of this section.

(e) The department may by rule determine the manner in which a taxpayer may claim the liability relief provided under this subsection.

(7) Except as otherwise provided in this section, a marketplace seller obligated to collect the taxes imposed under this chapter and chapter 82.12 RCW is not required to collect such taxes on all taxable retail sales through a marketplace operated by a marketplace facilitator if the marketplace seller has obtained documentation from the marketplace facilitator indicating that the marketplace facilitator is registered with the department and will collect all applicable taxes due under this chapter and chapter 82.12 RCW on all taxable retail sales made on behalf of the marketplace seller through the marketplace operated by the marketplace facilitator. The documentation required by this subsection (7) must be provided in a form and manner prescribed by or acceptable to the department. This subsection (7) does not relieve a marketplace seller from liability for uncollected taxes due under this chapter or chapter 82.12 RCW resulting from a marketplace facilitator's failure to collect the proper amount of tax due when the error was due to incorrect information given to the marketplace facilitator by the marketplace seller.

(8) No class action may be brought against a marketplace facilitator in any court of this state on behalf of purchasers arising from or in any way related to an overpayment of sales or use tax collected by the marketplace facilitator, regardless of whether that claim is characterized as a tax refund claim. Nothing in this subsection affects a purchaser's right to seek a refund from the department as provided under chapter 82.32 RCW.

(9) Nothing in this section affects the obligation of any purchaser to remit sales or use tax and any other applicable taxes and fees, as to any applicable taxable transaction in which the seller or the seller's agent does not collect and remit sales tax.

Sec. 11. RCW 82.08.956 and 2013 2nd sp.s. c 13 s 1002 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of hog fuel used to produce electricity, steam, heat, or biofuel. This exemption is available only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

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

(a) "Hog fuel" means wood waste and other wood residuals including forest derived biomass. "Hog fuel" does not include firewood or wood pellets; and

(b) "Biofuel" (~~has the same meaning as provided in RCW 43.325.010~~) means a liquid or gaseous fuel derived from organic matter intended for use as a transportation fuel including, but not limited to, biodiesel, renewable diesel, ethanol, renewable natural gas, and renewable propane.

(3) If a taxpayer who claimed an exemption under this section closes a facility in Washington for which employment positions were reported under RCW 82.32.605, resulting in a loss of jobs located within the state, the department must declare the amount of the tax exemption claimed under this section for the previous two calendar years to be immediately due.

(4) This section expires June 30, 2024.

Sec. 12. RCW 82.08.9651 and 2020 c 139 s 17 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales of gases and chemicals used by a manufacturer or processor for hire in the production of semiconductor materials. This exemption is limited to gases and chemicals used in the production process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the production process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For the purposes of this section, "semiconductor materials" has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(4) Any person who has claimed the exemption under this section must reimburse the department for fifty percent of the amount of the tax preference under this section, if(:(

~~(a) The~~) the number of persons employed by the person claiming the tax preference is less than ninety percent of the person's three-year employment average for the three years immediately preceding the year in which the exemption is claimed(~~:(~~ or

~~(b) The person is subject to a review under section 501(4)(a), chapter 37, Laws of 2017 3rd sp. sess. and such person does not meet performance criteria in section 501(4)(a), chapter 37, Laws of 2017 3rd sp. sess)).~~

(5) This section expires December 1, 2028.

Sec. 13. RCW 82.08.9999 and 2019 c 287 s 9 are each amended 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 RCW 82.12.9999 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 RCW 82.12.9999 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 RCW 82.12.9999(1)(a)(iii)(B).

(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 RCW 82.12.9999(1)(a)(iii)(B).

(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 RCW 82.12.9999 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 RCW 82.12.9999; and estimates of the future costs of leased vehicles that qualified for the exemption under this section and RCW 82.12.9999.

(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 (~~July 28~~) August 1, 2019.

(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 August 1, 2028.

(8) This section expires August 1, 2028.

(9) This section is supported by the revenues generated in RCW 46.17.324, and therefore takes effect only if RCW 46.17.324 is enacted by June 30, 2019.

Sec. 14. RCW 82.12.956 and 2013 2nd sp.s. c 13 s 1003 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of hog fuel for production of electricity, steam, heat, or biofuel.

(2) For the purposes of this section:

(a) "Hog fuel" has the same meaning as provided in RCW 82.08.956; and

(b) "Biofuel" has the same meaning as provided in RCW ~~((43.325.010))~~ 82.08.956.

(3) This section expires June 30, 2024.

Sec. 15. RCW 82.12.9651 and 2020 c 139 s 22 are each amended to read as follows:

(1) The provisions of this chapter do not apply with respect to the use of gases and chemicals used by a manufacturer or processor for hire in the production of semiconductor materials. This exemption is limited to gases and chemicals used in the production process to grow the product, deposit or grow permanent or sacrificial layers on the product, to etch or remove material from the product, to anneal the product, to immerse the product, to clean the product, and other such uses whereby the gases and chemicals come into direct contact with the product during the production process, or uses of gases and chemicals to clean the chambers and other like equipment in which such processing takes place. For purposes of this section, "semiconductor materials" has the meaning provided in RCW 82.04.2404 and 82.04.294(3).

(2) A person claiming the exemption under this section must file a complete annual tax performance report with the department under RCW 82.32.534.

(3) No application is necessary for the tax exemption. The person is subject to all of the requirements of chapter 82.32 RCW.

(4) Any person who has claimed the exemption under this section must reimburse the department for fifty percent of the amount of the tax preference under this section, if(=

~~(a) The~~) the number of persons employed by the person claiming the tax preference is less than ninety percent of the person's three-year employment average for the three years immediately preceding the year in which the exemption is claimed(~~(=~~

~~(b) The person is subject to a review under section 501(4)(a), chapter 37, Laws of 2017 3rd sp. sess. and such person does not meet performance criteria in section 501(4)(a), chapter 37, Laws of 2017 3rd sp. sess)).~~

(5) This section expires December 1, 2028.

Sec. 16. RCW 82.14.532 and 2019 c 273 s 11 are each amended to read as follows:

(1) Subject to the requirements of chapter 35.107 RCW 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))~~ on purchases and uses qualifying under subsection (1) of this section, with respect to taxes imposed by the city and any other taxing authorities ~~((imposing taxes under the authority of this chapter))~~ that have authorized the use of the remittance ~~((to the city legislative authority))~~ as provided under RCW ~~((35.107.050))~~ 35.107.040. A city authorizing a remittance under this subsection must notify the department of an approved qualifying project within 60 days of the city's approval of the project. Such notice must include the information required under RCW 35.107.040(2) (a) through (c).

(3) After the qualifying project has been operationally complete for eighteen months, but not more than thirty-six months, and after all state and 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 RCW 35.107.050.

(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 RCW 35.107.020 apply to this section.

Sec. 17. RCW 82.29A.090 and 2002 c 177 s 1 are each amended to read as follows:

(1) ~~((Bimonthly))~~ Monthly the state treasurer ~~((shall))~~ must make distribution from the local leasehold excise tax account to the counties and cities the amount of tax collected on behalf of each county or city.

(2) (~~Earnings accrued through July 31, 2002, shall be disbursed to counties and cities proportionate to the amount of tax collected annually on behalf of each county or city.~~

(3) ~~After July 31, 2002, bimonthly)~~ Monthly the state treasurer (~~shall~~) must disburse earnings from the local leasehold excise tax account to the counties or cities proportionate to the amount of tax collected on behalf of each county or city.

~~((4))~~ (3) The state treasurer shall make the distribution under this section without appropriation.

Sec. 18. RCW 82.32.330 and 2011 c 174 s 404 are each amended to read as follows:

(1) For purposes of this section:

(a) "Disclose" means to make known to any person in any manner whatever a return or tax information;

(b) "Return" means a tax or information return or claim for refund required by, or provided for or permitted under, the laws of this state which is filed with the department of revenue by, on behalf of, or with respect to a person, and any amendment or supplement thereto, including supporting schedules, attachments, or lists that are supplemental to, or part of, the return so filed;

(c) "Tax information" means (i) a taxpayer's identity, (ii) the nature, source, or amount of the taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability deficiencies, overassessments, or tax payments, whether taken from the taxpayer's books and records or any other source, (iii) whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing, (iv) a part of a written determination that is not designated as a precedent and disclosed pursuant to RCW 82.32.410, or a background file document relating to a written determination, and (v) other data received by, recorded by, prepared by, furnished to, or collected by the department of revenue with respect to the determination of the existence, or possible existence, of liability, or the amount thereof, of a person under the laws of this state for a tax, penalty, interest, fine, forfeiture, or other imposition, or offense. However, data, material, or documents that do not disclose information related to a specific or identifiable taxpayer do not constitute tax information under this section. Except as provided by RCW 82.32.410, nothing in this chapter requires any person possessing data, material, or documents made confidential and privileged by this section to delete information from such data, material, or documents so as to permit its disclosure;

(d) "State agency" means every Washington state office, department, division, bureau, board, commission, or other state agency;

(e) "Taxpayer identity" means the taxpayer's name, address, telephone number, registration number, or any combination thereof, or any other information disclosing the identity of the taxpayer; and

(f) "Department" means the department of revenue or its officer, agent, employee, or representative.

(2) Returns and tax information are confidential and privileged, and except as authorized by this section, neither the department of revenue nor any other person may disclose any return or tax information.

(3) This section does not prohibit the department of revenue from:

(a) Disclosing such return or tax information in a civil or criminal judicial proceeding or an administrative proceeding:

(i) In respect of any tax imposed under the laws of this state if the taxpayer or its officer or other person liable under this title or chapter 83.100 RCW is a party in the proceeding;

(ii) In which the taxpayer about whom such return or tax information is sought and another state agency are adverse parties in the proceeding; or

(iii) Brought by the department under RCW 18.27.040 or 19.28.071;

(b) Disclosing, subject to such requirements and conditions as the director prescribes by rules adopted pursuant to chapter 34.05 RCW, such return or tax information regarding a taxpayer to such taxpayer or to such person or persons as that taxpayer may designate in a request for, or consent to, such disclosure, or to any other person, at the taxpayer's request, to the extent necessary to comply with a request for information or assistance made by the taxpayer to such other person. However, tax information not received from the taxpayer must not be so disclosed if the director determines that such disclosure would compromise any investigation or litigation by any federal, state, or local government agency in connection with the civil or criminal liability of the taxpayer or another person, or that such disclosure would identify a confidential informant, or that such disclosure is contrary to any agreement entered into by the department that provides for the reciprocal exchange of information with other government agencies which agreement requires confidentiality with respect to such information unless such information is required to be disclosed to the taxpayer by the order of any court;

(c) Disclosing the name of a taxpayer against whom a warrant under RCW 82.32.210 has been either issued or filed and remains outstanding for a period of at least ten working days. The department is not required to disclose any information under this subsection if a taxpayer has entered a deferred payment arrangement with the department for the payment of a warrant that has not been filed and is making payments upon such deficiency that will fully satisfy the indebtedness within twelve months;

(d) Publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof;

(e) Disclosing such return or tax information, for official purposes only, to the governor or attorney general, or to any state agency, or to any committee or subcommittee of the legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions;

(f) Permitting the department of revenue's records to be audited and examined by the proper state officer, his or her agents and employees;

(g) Disclosing any such return or tax information to a peace officer as defined in RCW 9A.04.110 or county prosecuting attorney, for official purposes. The disclosure may be made only in response to a search warrant, subpoena, or other court order, unless the disclosure is for the purpose of criminal tax enforcement. A peace officer or county prosecuting attorney who receives the return or tax information may disclose that return or tax information only for use in the investigation and a related court proceeding, or in the court proceeding for which the return or tax information originally was sought;

(h) Disclosing any such return or tax information to the proper officer of the internal revenue service of the United States, the Canadian government or

provincial governments of Canada, or to the proper officer of the tax department of any state or city or town or county, for official purposes, but only if the statutes of the United States, Canada or its provincial governments, or of such other state or city or town or county, as the case may be, grants substantially similar privileges to the proper officers of this state;

(i) Disclosing any such return or tax information to the United States department of justice, including the bureau of alcohol, tobacco, firearms and explosives, the department of defense, the immigration and customs enforcement and the customs and border protection agencies of the United States department of homeland security, the United States coast guard, the alcohol and tobacco tax and trade bureau of the United States department of treasury, and the United States department of transportation, or any authorized representative of these federal agencies, for official purposes;

(j) Publishing or otherwise disclosing the text of a written determination designated by the director as a precedent pursuant to RCW 82.32.410;

(k) Disclosing, in a manner that is not associated with other tax information, the taxpayer name, entity type, business address, mailing address, revenue tax registration numbers, reseller permit numbers and the expiration date and status of such permits, North American industry classification system or standard industrial classification code of a taxpayer, and the dates of opening and closing of business. This subsection may not be construed as giving authority to the department to give, sell, or provide access to any list of taxpayers for any commercial purpose;

(l) Disclosing such return or tax information that is also maintained by another Washington state or local governmental agency as a public record available for inspection and copying under the provisions of chapter 42.56 RCW or is ((a document)) maintained by a court of record and is not otherwise prohibited from disclosure;

(m) Disclosing such return or tax information to the United States department of agriculture for the limited purpose of investigating food stamp fraud by retailers;

(n) Disclosing to a financial institution, escrow company, or title company, in connection with specific real property that is the subject of a real estate transaction, current amounts due the department for a filed tax warrant, judgment, or lien against the real property;

(o) Disclosing to a person against whom the department has asserted liability as a successor under RCW 82.32.140 return or tax information pertaining to the specific business of the taxpayer to which the person has succeeded;

(p) Disclosing real estate excise tax affidavit forms filed under RCW 82.45.150 in the possession of the department, including real estate excise tax affidavit forms for transactions exempt or otherwise not subject to tax;

(q) Disclosing to local taxing jurisdictions the identity of sellers granted relief under RCW 82.32.430(5)(b)(i) and the period for which relief is granted;

(r) Disclosing such return or tax information to the court in respect to the department's application for a subpoena under RCW 82.32.117;

(s) Disclosing to a person against whom the department has asserted liability under RCW 83.100.120 return or tax information pertaining to that person's liability for tax under chapter 83.100 RCW;

(t) Disclosing such return or tax information to the streamlined sales tax governing board, member states of the streamlined sales tax governing board, or authorized representatives of such board or states, for the limited purposes of:

(i) Conducting on behalf of member states sales and use tax audits of taxpayers; or

(ii) Auditing certified service providers or certified automated systems providers; ~~((o))~~

(u) Disclosing any such return or tax information when the disclosure is specifically authorized under any other section of the Revised Code of Washington;

(v) Disclosing to an individual to whom the department has issued an assessment under RCW 82.32.145 for unpaid trust fund taxes of a defunct or insolvent entity, return or tax information of that entity pertaining to those unpaid trust fund taxes; or

(w) Disclosing any such return or tax information pursuant to a federal grand jury subpoena or subpoena issued by a United States attorney, only to be used in the criminal investigation and related court proceedings, or in the court proceeding for which the return or tax information originally was sought.

(4)(a) The department may disclose return or taxpayer information to a person under investigation or during any court or administrative proceeding against a person under investigation as provided in this subsection (4). The disclosure must be in connection with the department's official duties relating to an audit, collection activity, or a civil or criminal investigation. The disclosure may occur only when the person under investigation and the person in possession of data, materials, or documents are parties to the return or tax information to be disclosed. The department may disclose return or tax information such as invoices, contracts, bills, statements, resale or exemption certificates, or checks. However, the department may not disclose general ledgers, sales or cash receipt journals, check registers, accounts receivable/payable ledgers, general journals, financial statements, expert's workpapers, income tax returns, state tax returns, tax return workpapers, or other similar data, materials, or documents.

(b) Before disclosure of any tax return or tax information under this subsection (4), the department must, through written correspondence, inform the person in possession of the data, materials, or documents to be disclosed. The correspondence must clearly identify the data, materials, or documents to be disclosed. The department may not disclose any tax return or tax information under this subsection (4) until the time period allowed in (c) of this subsection has expired or until the court has ruled on any challenge brought under (c) of this subsection.

(c) The person in possession of the data, materials, or documents to be disclosed by the department has twenty days from the receipt of the written request required under (b) of this subsection to petition the superior court of the county in which the petitioner resides for injunctive relief. The court must limit or deny the request of the department if the court determines that:

(i) The data, materials, or documents sought for disclosure are cumulative or duplicative, or are obtainable from some other source that is more convenient, less burdensome, or less expensive;

(ii) The production of the data, materials, or documents sought would be unduly burdensome or expensive, taking into account the needs of the department, the amount in controversy, limitations on the petitioner's resources, and the importance of the issues at stake; or

(iii) The data, materials, or documents sought for disclosure contain trade secret information that, if disclosed, could harm the petitioner.

(d) The department must reimburse reasonable expenses for the production of data, materials, or documents incurred by the person in possession of the data, materials, or documents to be disclosed.

(e) Requesting information under (b) of this subsection that may indicate that a taxpayer is under investigation does not constitute a disclosure of tax return or tax information under this section.

(5) Service of a subpoena issued under RCW 82.32.117 does not constitute a disclosure of return or tax information under this section. Notwithstanding anything else to the contrary in this section, a person served with a subpoena under RCW 82.32.117 may disclose the existence or content of the subpoena to that person's legal counsel.

(6) Any person acquiring knowledge of any return or tax information in the course of his or her employment with the department of revenue and any person acquiring knowledge of any return or tax information as provided under subsection (3) (e), (f), (g), (h), (i), ~~((o))~~ (m), (v), and (w) of this section, who discloses any such return or tax information to another person not entitled to knowledge of such return or tax information under the provisions of this section, is guilty of a misdemeanor. If the person guilty of such violation is an officer or employee of the state, such person must forfeit such office or employment and is incapable of holding any public office or employment in this state for a period of two years thereafter.

Sec. 19. RCW 82.32.534 and 2017 c 135 s 1 are each amended to read as follows:

(1)(a)(i) Beginning in calendar year 2018, every person claiming a tax preference that requires an annual tax performance report under this section must file a complete annual report with the department. The report is due by May 31st of the year following any calendar year in which a person becomes eligible to claim the tax preference that requires a report under this section.

(ii) If the tax preference is a deferral of tax, the first annual tax performance report must be filed by May 31st of the calendar year following the calendar year in which the investment project is certified by the department as operationally complete, and an annual tax performance report must be filed by May 31st of each of the seven succeeding calendar years.

(iii) The department may extend the due date for timely filing of annual reports under this section as provided in RCW 82.32.590.

(b) The report must include information detailing employment and wages for employment positions in Washington for the year that the tax preference was claimed. However, persons engaged in manufacturing commercial airplanes or components of such airplanes may report employment ~~((;))~~ and wage ~~((; and benefit))~~ information per job at the manufacturing site for the year that the tax preference was claimed. The report must not include names of employees. The report must also detail employment by the total number of full-time, part-time, and temporary positions for the year that the tax preference was claimed. In lieu

of reporting employment and wage data required under this subsection, taxpayers may instead opt to allow the employment security department to release the same employment and wage information from unemployment insurance records to the department and the joint legislative audit and review committee. This option is intended to reduce the reporting burden for taxpayers, and each taxpayer electing to use this option must affirm that election in accordance with procedures approved by the employment security department.

(c) Persons receiving the benefit of the tax preference provided by RCW 82.16.0421 or claiming any of the tax preferences provided by RCW 82.04.2909, 82.04.4481, 82.08.805, 82.12.805, or 82.12.022(5) must indicate on the annual report the quantity of product produced in this state during the time period covered by the report.

(d) If a person filing a report under this section did not file a report with the department in the previous calendar year, the report filed under this section must also include employment~~((;))~~ and wage~~((; and benefit))~~ information for the calendar year immediately preceding the calendar year for which a tax preference was claimed.

(2)(a) As part of the annual report, the department and the joint legislative audit and review committee may request additional information necessary to measure the results of, or determine eligibility for, the tax preference.

(b) The report must include the amount of the tax preference claimed for the calendar year covered by the report. For a person that claimed an exemption provided in RCW 82.08.025651 or 82.12.025651, the report must include the amount of tax exempted under those sections in the prior calendar year for each general area or category of research and development for which exempt machinery and equipment and labor and services were acquired in the prior calendar year.

(3) Other than information requested under subsection (2)(a) of this section, the information contained in an annual report filed under this section is not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(4)(a) Except as otherwise provided by law, if a person claims a tax preference that requires an annual report under this section but fails to submit a complete report by the due date or any extension under RCW 82.32.590, the department must declare:

(i) Thirty-five percent of the amount of the tax preference claimed for the previous calendar year to be immediately due and payable;

(ii) An additional fifteen percent of the amount of the tax preference claimed for the previous calendar year to be immediately due and payable if the person has previously been assessed under this subsection (4) for failure to submit a report under this section for the same tax preference; and

(iii) If the tax preference is a deferral of tax, the amount immediately due under this subsection is twelve and one-half percent of the deferred tax. If the economic benefits of the deferral are passed to a lessee, the lessee is responsible for payment to the extent the lessee has received the economic benefit.

(b) The department may not assess interest or penalties on amounts due under this subsection.

(5) The department must use the information from this section to prepare summary descriptive statistics by category. No fewer than three taxpayers may

be included in any category. The department must report these statistics to the legislature each year by December 31st.

(6) For the purposes of this section:

(a) "Person" has the meaning provided in RCW 82.04.030 and also includes the state and its departments and institutions.

(b) "Tax preference" has the meaning provided in RCW 43.136.021 and includes only the tax preferences requiring a report under this section.

Sec. 20. RCW 82.32.805 and 2020 c 139 s 57 are each amended to read as follows:

(1)(a) Except as otherwise provided in this section, every new tax preference expires on the first day of the calendar year that is subsequent to the calendar year that is ten years from the effective date of the tax preference. With respect to any new property tax exemption, the exemption does not apply to taxes levied for collection beginning in the calendar year that is subsequent to the calendar year that is ten years from the effective date of the tax preference.

(b) If a new tax preference applies to both a state tax and a corresponding local tax that the department administers, such as a state and local sales and use tax exemption, the expiration of that new tax preference under this subsection applies to both the state and local tax.

(c) A future amendment that expands a tax preference does not extend the tax preference beyond the period provided in this subsection unless an extension is expressly and unambiguously stated in the amendment.

(2) Subsection (1) of this section does not apply if legislation creating a new tax preference includes an expiration date for the new tax preference or an exemption from this section in its entirety or from the provisions of subsection (1) of this section, whether or not such exemption is codified.

(3) Subsection (1) of this section does not apply to any existing tax preference that is amended to clarify an ambiguity or correct a technical inconsistency. Future enacted legislation intended to make such clarifications or corrections must explicitly indicate this intent.

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

(a) "New tax preference" means a tax preference that initially takes effect after August 1, 2013, or a tax preference in effect as of August 1, 2013, that is expanded or extended after August 1, 2013, even if the expanding or extending amendment includes any other change to the tax preference.

(b) "Tax preference" has the same meaning as in RCW 43.136.021 with respect to any state tax administered by the department, except does not include the Washington estate and transfer tax in chapter 83.100 RCW.

(5) The department must provide written notice to the office of the code reviser of a ten-year expiration date required under this section for a new tax preference.

Sec. 21. RCW 84.40.130 and 2012 c 59 s 1 are each amended to read as follows:

(1) If any person or corporation fails or refuses to deliver to the assessor, on or before the date specified in RCW 84.40.040, a list of the taxable personal property which is required to be listed under this chapter, unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there must be added to the amount of tax assessed against the taxpayer on account of such

personal property five percent of the amount of such tax, not to exceed fifty dollars per calendar day, if the failure is for not more than one month, with an additional five percent for each additional month or fraction thereof during which such failure continues not exceeding twenty-five percent in the aggregate. Such penalty must be collected in the same manner as the tax to which it is added and distributed in the same manner as other property tax interest and penalties.

(2) If any person or corporation willfully gives a false or fraudulent list, schedule or statement required by this chapter, or, with intent to defraud, fails or refuses to deliver any list, schedule or statement required by this chapter, such person or corporation is liable for the additional tax properly due or, in the case of willful failure or refusal to deliver such list, schedule or statement, the total tax properly due; and in addition such person or corporation is liable for a penalty of one hundred percent of such additional tax or total tax as the case may be. Such penalty is in lieu of the penalty provided for in subsection (1) of this section. A person or corporation giving a false list, schedule or statement is not subject to this penalty if it is shown that the misrepresentations contained therein are entirely attributable to reasonable cause. The taxes and penalties provided for in this subsection must be recovered in an action in the name of the state of Washington on the complaint of the county assessor or the county legislative authority and must, when collected, be paid into the county treasury to the credit of the current expense fund. The provisions of this subsection are additional and supplementary to any other provisions of law relating to recovery of property taxes.

~~((3)(a) The county legislative authority may authorize the assessor to waive penalties otherwise due under this section for assessment years 2011 and prior for a person or corporation failing or refusing to deliver to the assessor a list of taxable personal property, if all of the following circumstances are met:~~

~~(i) On or before July 1, 2012, the taxpayer files with the assessor:~~

~~(A) A correct list and statement of the taxable personal property required to be listed under this chapter; and~~

~~(B) A completed application for penalty waiver in the form and manner prescribed by the assessor; and~~

~~(ii) On or before September 1, 2012, the taxpayer remits full payment to the county of the entire balance due on all tax liabilities for which a penalty waiver under this section is requested, other than the penalty amount eligible for waiver under this section.~~

~~(b) A taxpayer receiving penalty relief under this subsection (3) may not seek a refund or otherwise challenge the amount of any tax liability paid under (a)(ii) of this subsection (3). Personal property listed under (a)(i) of this subsection (3) is subject to verification by the assessor, and any unreported or misreported property discovered by the assessor remains subject to taxes, penalties, and interest.))~~

Sec. 22. RCW 84.52.0531 and 2019 c 410 s 2 are each amended to read as follows:

(1) Beginning with taxes levied for collection in 2020, the maximum dollar amount which may be levied by or for any school district for enrichment levies under RCW 84.52.053 is equal to the lesser of two dollars and fifty cents per thousand dollars of the assessed value of property in the school district or the

maximum per-pupil limit. This maximum dollar amount shall be reduced accordingly as provided under RCW 43.09.2856(2).

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

(a) For the purpose of this section, "inflation" means(~~(, for any school year, the rate of the yearly increase of the previous calendar year's annual average))~~ the percentage change in the seasonally adjusted consumer price index for all urban consumers, Seattle area, for the most recent 12-month period as of September 25th of the year before the taxes are payable, using the official current base compiled by the United States bureau of labor statistics(~~(, United States department of labor))~~).

(b) "Maximum per-pupil limit" means:

(i) Two thousand five hundred dollars, as increased by inflation beginning with property taxes levied for collection in 2020, multiplied by the number of average annual full-time equivalent students enrolled in the school district in the prior school year, for school districts with fewer than forty thousand annual full-time equivalent students enrolled in the school district in the prior school year; or

(ii) Three thousand dollars, as increased by inflation beginning with property taxes levied for collection in 2020, multiplied by the number of average annual full-time equivalent students enrolled in the school district in the prior school year, for school districts with forty thousand or more annual full-time equivalent students enrolled in the school district in the prior school year.

(c) "Prior school year" means the most recent school year completed prior to the year in which the levies are to be collected.

(3) For districts in a high/nonhigh relationship, the enrollments of the nonhigh students attending the high school shall only be counted by the nonhigh school districts for purposes of funding under this section.

(4) For school districts participating in an innovation academy cooperative established under RCW 28A.340.080, enrollments of students attending the academy shall be adjusted so that each participant district receives its proportional share of student enrollments for purposes of funding under this section.

(5) Beginning with propositions for enrichment levies for collection in calendar year 2020 and thereafter, a district must receive approval of an enrichment levy expenditure plan under RCW 28A.505.240 before submission of the proposition to the voters.

(6) The superintendent of public instruction shall develop rules and regulations and inform school districts of the pertinent data necessary to carry out the provisions of this section.

(7) Beginning with taxes levied for collection in 2018, enrichment levy revenues must be deposited in a separate subfund of the school district's general fund pursuant to RCW 28A.320.330, and for the 2018-19 school year are subject to the restrictions of RCW 28A.150.276 and the audit requirements of RCW 43.09.2856.

(8) Funds collected from levies for transportation vehicles, construction, modernization, or remodeling of school facilities as established in RCW 84.52.053 are not subject to the levy limitations in subsections (1) through (5) of this section.

Sec. 23. RCW 84.52.080 and 2010 c 106 s 314 are each amended to read as follows:

(1) The county assessor must extend the taxes upon the tax rolls in the form prescribed in this section. The rate percent necessary to raise the amounts of taxes levied for state and county purposes, and for purposes of taxing districts coextensive with the county, must be computed upon the assessed value of the property of the county. The rate percent necessary to raise the amount of taxes levied for any taxing district within the county must be computed upon the assessed value of the property of the district. All taxes assessed against any property must be added together and extended on the rolls in a column headed consolidated or total tax. In extending any tax, whenever the tax amounts to a fractional part of a cent greater than one-half of a cent it must be rounded up to one cent, and whenever it amounts to one-half of a cent or less it must be dropped. The amount of all taxes must be entered in the proper columns, as shown by entering the rate percent necessary to raise the consolidated or total tax and the total tax assessed against the property.

(2) For the purpose of computing the rate necessary to raise the amount of any excess levy in a taxing district entitled to a distribution under RCW 84.33.081, other than the state, the county assessor must add the district's timber assessed value, as defined in RCW 84.33.035, to the assessed value of the property. However, for school districts (~~maintenance and operations~~) enrichment levies, only one-half of the district's timber assessed value or eighty percent of the timber roll of the district in calendar year 1983 as determined under chapter 84.33 RCW, whichever is greater, must be added to the assessed value of the property.

(3) Upon the completion of such tax extension, it is the duty of the county assessor to make in each assessment book, tax roll or list a certificate in the following form:

I,, assessor of county, state of Washington, do hereby certify that the foregoing is a correct list of taxes levied on the real and personal property in the county of for the year two thousand

Witness my hand this day of, 20 . . .

. , County Assessor

(4) The county assessor must deliver the tax rolls to the county treasurer, on or before the fifteenth day of January, taking a receipt from the treasurer. At the same time, the county assessor must provide the county auditor with an abstract of the tax rolls showing the total amount of taxes collectible in each of the taxing districts.

Sec. 24. RCW 84.36.385 and 2020 c 209 s 2 are each amended to read as follows:

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

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

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

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

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

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

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

(8) Beginning August 1, 2019, and by March 1st every fifth year thereafter, the department must publish updated income thresholds. The adjusted thresholds must be rounded up to the nearest one thousand dollars. If the income threshold adjustment is negative, the income threshold for the prior year continues to apply. The department must adjust income thresholds for each county to reflect the most recent year available of estimated county median household incomes, including preliminary estimates or projections, as published by the office of financial management. For the purposes of this subsection, "county median household income" has the same meaning as provided in RCW 84.36.383.

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

NEW SECTION. Sec. 25. RCW 82.25.045 (Shipped or transported outside state—Tax credit) and 2019 c 445 s 109 are each repealed.

Passed by the Senate February 25, 2021.

Passed by the House April 7, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 146

[Substitute Senate Bill 5254]

EMPLOYERS—PROTECTIVE DEVICES AND EQUIPMENT—PUBLIC HEALTH EMERGENCY

AN ACT Relating to the use of protective devices and equipment during a public health emergency; adding a new section to chapter 49.17 RCW; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 49.17 RCW to read as follows:

(1) The requirements of this section apply only during a public health emergency. For the purposes of this section, "public health emergency" means a declaration or order relating to controlling and preventing the spread of any infectious or contagious disease that covers the jurisdiction where the individual or business performs work, and is issued as follows:

(a) The president of the United States has declared a national or regional emergency;

(b) The governor has declared a state of emergency under RCW 43.06.010(12); or

(c) An order has been issued by a local health officer under RCW 70.05.070.

(2) Every employer who does not require employees or contractors to wear a specific type of personal protective equipment must accommodate its employee's or contractor's voluntary use of that specific type of protective device or equipment, including gloves, goggles, face shields, and face masks, as the employee or contractor deems necessary.

(3) The provisions of subsection (2) of this section applies only when:

(a) The voluntary use of these protective devices and equipment does not introduce hazards to the work environment and is consistent with the provisions of this chapter and corresponding rules established by the department as of the effective date of this section;

(b) The use of facial coverings does not interfere with an employer's security requirements; and

(c) The voluntary use of these protective devices and equipment does not conflict with standards for that specific type of equipment established by the department of health or the department.

(4) An employer may verify that voluntary use of personal protective equipment meets all regulatory requirements for workplace health and safety.

(5) An employer may not apply to the director of the department, under RCW 49.17.080, for a temporary order granting a variance from this subsection.

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 March 2, 2021.

Passed by the House April 8, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 147

[Substitute Senate Bill 5401]

BACHELOR DEGREES IN COMPUTER SCIENCE—COMMUNITY AND TECHNICAL COLLEGES

AN ACT Relating to degrees in computer science; amending RCW 28B.50.825; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds it essential that Washington students, especially low-income students and students of color, have the necessary credentials to secure the high-demand jobs of the future. Washington is fortunate to be home to a large, and growing, technology sector. The technology sector in Washington currently has more than 24,000 job openings, most of which require a four-year bachelor of science degree in computer science. The legislature also finds that the state imported four times as many computer science graduates than it produced in state. The legislature also finds that the state can do a better job of training Washington residents to secure these living wage jobs of the future. Additionally, of the 1,883 computer science degrees awarded in Washington during the 2018-19 school year, only 3.8 percent were awarded to African American students, 5.6 percent to Hispanic students, and less than 1 percent to Native Americans. The legislature further finds that Washington's competitiveness in the global economy requires the state to ensure companies are able to hire a qualified workforce of Washington residents. To achieve the goals set forth in the workforce education investment act, specifically 70 percent postsecondary credential attainment, the legislature finds that we need to expand access to the high-demand field of computer science, especially to students of color.

Sec. 2. RCW 28B.50.825 and 2016 sp.s. c 33 s 1 are each amended to read as follows:

(1) Subject to approval by the college board, ~~((Bellevue college is))~~ community colleges and technical colleges are authorized to offer bachelor of science degrees in computer science.

(2) ~~((Bellevue college))~~ Community colleges and technical colleges may develop the curriculum for and design and deliver courses leading to a bachelor of science degree in computer science.

(3) Degree programs developed under this section are subject to approval by the college board under RCW 28B.50.090 before a college may enroll students in upper-division courses.

(4)(a) Colleges may submit an application to the college board. The college board shall review the applications and select the colleges using objective criteria including, but not limited to:

(i) The college demonstrates the capacity to make a long-term commitment of resources to build and sustain a high quality program;

(ii) The college has or can readily engage faculty appropriately qualified to develop and deliver a high quality curriculum at the baccalaureate level;

(iii) The college can demonstrate demand for the proposed program from a sufficient number of students within its service area to make the program cost-effective and feasible to operate;

(iv) The college can demonstrate that employers demand the level of technical training proposed within the program, making it cost-effective for students to seek the degree; and

(v) The proposed program fills a gap in options available for students because it is not offered by a public four-year institution of higher education in the college's geographic area or if there is a shortage of programs demanded by industry and workforce.

(b) Applications may not be submitted earlier than December 1, 2021.

(5) A community college offering a bachelor of science degree in computer science on the effective date of this section is exempt from the requirements of subsection (4) of this section.

Passed by the Senate March 2, 2021.

Passed by the House April 7, 2021.

Approved by the Governor April 26, 2021.

Filed in Office of Secretary of State April 26, 2021.

CHAPTER 148

[Second Substitute Senate Bill 6027]

FLOATING RESIDENCES—SHORELINE MANAGEMENT ACT—DEFINITIONS

AN ACT Relating to floating residences; and amending RCW 90.58.270 and 79.105.060.

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

Sec. 1. RCW 90.58.270 and 2014 c 56 s 2 are each amended to read as follows:

(1) Nothing in this section shall constitute authority for requiring or ordering the removal of any structures, improvements, docks, fills, or developments placed in navigable waters prior to December 4, 1969, and the consent and authorization of the state of Washington to the impairment of public rights of navigation, and corollary rights incidental thereto, caused by the retention and maintenance of said structures, improvements, docks, fills or developments are hereby granted: PROVIDED, That the consent herein given shall not relate to any structures, improvements, docks, fills, or developments placed on tidelands, shorelands, or beds underlying said waters which are in trespass or in violation of state statutes.

(2) Nothing in this section shall be construed as altering or abridging any private right of action, other than a private right which is based upon the impairment of public rights consented to in subsection (1) of this section.

(3) Nothing in this section shall be construed as altering or abridging the authority of the state or local governments to suppress or abate nuisances or to abate pollution.

(4) Subsection (1) of this section shall apply to any case pending in the courts of this state on June 1, 1971 relating to the removal of structures, improvements, docks, fills, or developments based on the impairment of public navigational rights.

(5)(a) A floating home permitted or legally established prior to January 1, 2011, must be classified as a conforming preferred use.

(b) For the purposes of this subsection:

(i) "Conforming preferred use" means that applicable development and shoreline master program regulations may only impose reasonable conditions and mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating homes and floating home moorages by rendering these actions impracticable.

(ii) "Floating home" means a single-family dwelling unit constructed on a float, that is moored, anchored, or otherwise secured in waters, and is not a vessel, even though it may be capable of being towed.

(6)(a) A floating on-water residence legally established prior to July 1, 2014, must be considered a conforming use and accommodated through reasonable shoreline master program regulations, permit conditions, or mitigation that will not effectively preclude maintenance, repair, replacement, and remodeling of existing floating on-water residences and their moorages by rendering these actions impracticable. A substantial development permit is not required when replacing or remodeling a floating on-water residence if the size of the existing residence is not materially exceeded. A substantial development permit is required if the replacement or remodel of a floating on-water residence materially exceeds the size of the existing residence. All replacements and remodels which add one hundred twenty square feet or more to the living space must require on-board gray-water containment or a waste-water connection that disposes of the gray water to a waste-water disposal system.

(b) For the purpose of this subsection, "floating on-water residence" means a vessel or any other floating structure other than a floating home, as defined under subsection (5) of this section(~~(, that)~~): (i) That is designed or used primarily as a residence on the water and has detachable utilities; and (ii) whose owner or primary occupant has held an ownership interest in space in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014.

Sec. 2. RCW 79.105.060 and 2005 c 155 s 102 are each amended to read as follows:

The definitions in this section apply throughout chapters 79.105 through 79.145 RCW unless the context clearly requires otherwise.

(1) "Aquatic lands" means all tidelands, shorelands, harbor areas, and the beds of navigable waters.

(2) "Beds of navigable waters" means those lands lying waterward of and below the line of navigability on rivers and lakes not subject to tidal flow, or extreme low tide mark in navigable tidal waters, or the outer harbor line where harbor area has been created.

(3) "First-class shorelands" means the shores of a navigable lake or river belonging to the state, not subject to tidal flow, lying between the line of ordinary high water and the line of navigability, or inner harbor line where established and within or in front of the corporate limits of any city or within two miles of either side.

(4) "First-class tidelands" means the shores of navigable tidal waters belonging to the state, lying within or in front of the corporate limits of any city, or within one mile of either side and between the line of ordinary high tide and the inner harbor line; and within two miles of the corporate limits on either side and between the line of ordinary high tide and the line of extreme low tide.

(5) "Harbor area" means the area of navigable waters determined as provided in Article XV, section 1 of the state Constitution, which shall be forever reserved for landings, wharves, streets, and other conveniences of navigation and commerce.

(6) "Improvements" when referring to state-owned aquatic lands means anything considered a fixture in law placed within, upon, or attached to aquatic lands that has changed the value of those lands, or any changes in the previous condition of the fixtures that changes the value of the land.

(7) "Inflation rate" means for a given year the percentage rate of change in the previous calendar year's all commodity producer price index of the bureau of labor statistics of the United States department of commerce. If the index ceases to be published, the department shall designate by rule a comparable substitute index.

(8) "Inner harbor line" means a line located and established in navigable waters between the line of ordinary high tide or ordinary high water and the outer harbor line, constituting the inner boundary of the harbor area.

(9) "Log booming" means placing logs into and taking them out of the water, assembling and disassembling log rafts before or after their movement in waterborne commerce, related handling and sorting activities taking place in the water, and the temporary holding of logs to be taken directly into a processing facility. "Log booming" does not include the temporary holding of logs to be taken directly into a vessel.

(10) "Log storage" means the water storage of logs in rafts or otherwise prepared for shipment in waterborne commerce, but does not include the temporary holding of logs to be taken directly into a vessel or processing facility.

(11) "Nonwater-dependent use" means a use that can operate in a location other than on the waterfront. Examples include, but are not limited to, hotels, condominiums, apartments, restaurants, retail stores, and warehouses not part of a marine terminal or transfer facility.

(12) "Outer harbor line" means a line located and established in navigable waters as provided in Article XV, section 1 of the state Constitution, beyond which the state shall never sell or lease any rights whatever to private persons.

(13) "Person" means any private individual, partnership, association, organization, cooperative, firm, corporation, the state or any agency or political subdivision thereof, any public or municipal corporation, or any unit of government, however designated.

(14) "Port district" means a port district created under Title 53 RCW.

(15) "Public utility lines" means pipes, conduits, and similar facilities for distribution of water, electricity, natural gas, telephone, other electronic communication, and sewers, including sewer outfall lines.

(16) "Real rate of return" means the average for the most recent ten calendar years of the average rate of return on conventional real property mortgages as reported by the federal home loan bank board or any successor agency, minus the average inflation rate for the most recent ten calendar years.

(17) "Second-class shorelands" means the shores of a navigable lake or river belonging to the state, not subject to tidal flow, lying between the line of ordinary high water and the line of navigability, and more than two miles from the corporate limits of any city.

(18) "Second-class tidelands" means the shores of navigable tidal waters belonging to the state, lying outside of and more than two miles from the corporate limits of any city, and between the line of ordinary high tide and the line of extreme low tide.

(19) "Shorelands," where not preceded by "first-class" or "second-class," means both first-class shorelands and second-class shorelands.

(20) "State-owned aquatic lands" means all tidelands, shorelands, harbor areas, the beds of navigable waters, and waterways owned by the state and administered by the department or managed under RCW 79.105.420 by a port district. "State-owned aquatic lands" does not include aquatic lands owned in fee by, or withdrawn for the use of, state agencies other than the department.

(21) "Terminal" means a point of interchange between land and water carriers, such as a pier, wharf, or group of such, equipped with facilities for care and handling of either cargo or passengers, or both.

(22) "Tidelands," where not preceded by "first-class" or "second-class," means both first-class tidelands and second-class tidelands.

(23) "Valuable materials" when referring to state-owned aquatic lands means any product or material within or upon lands, such as forest products, forage, stone, gravel, sand, peat, agricultural crops, and all other materials of value except mineral, coal, petroleum, and gas as provided for under chapter 79.14 RCW. However, RCW 79.140.190 and 79.140.200 also apply to materials provided for under chapter 79.14 RCW.

(24)(a) "Water-dependent use" means a use that cannot logically exist in any location but on the water. Examples include, but are not limited to: Waterborne commerce; terminal and transfer facilities; ferry terminals; watercraft sales in conjunction with other water-dependent uses; watercraft construction, repair, and maintenance; moorage and launching facilities; aquaculture; log booming; and public fishing piers and parks.

(b) "Water-dependent use" includes a vessel or any other floating structure, other than a floating home as defined in RCW 90.58.270(5): (a) That is designed or used primarily as a residence on the water and has detachable utilities; and (b) whose owner or primary occupant has held an ownership interest in a marina, or has held a lease or sublease to use space in a marina, since a date prior to July 1, 2014. Any rule making necessary under this subsection (24)(b) is not subject to the requirements of RCW 43.21C.030(2)(c).

(25) "Water-oriented use" means a use that historically has been dependent on a waterfront location, but with existing technology could be located away from the waterfront. Examples include, but are not limited to, wood products

manufacturing, watercraft sales, fish processing, petroleum refining, sand and gravel processing, log storage, and ~~((houseboats))~~ a floating home as defined in RCW 90.58.270(5)(b)(ii). For the purposes of determining rent under this chapter, water-oriented uses shall be classified as water-dependent uses if the activity either is conducted on state-owned aquatic lands leased on October 1, 1984, or was actually conducted on the state-owned aquatic lands for at least three years before October 1, 1984. If, after October 1, 1984, the activity is changed to a use other than a water-dependent use, the activity shall be classified as a nonwater-dependent use. If continuation of the existing use requires leasing additional state-owned aquatic lands and is permitted under the shoreline management act of 1971, chapter 90.58 RCW, the department may allow reasonable expansion of the water-oriented use.

Passed by the Senate March 9, 2020.

Passed by the House March 5, 2020.

Vetoed by the Governor April 3, 2020.

Filed in Office of Secretary of State April 29, 2021.

CHAPTER 149

[House Bill 1022]

HORSE RACING COMMISSION—STATE SUPPORT

AN ACT Relating to Washington state horse racing commission provisions; amending RCW 67.16.100; and providing an expiration date.

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

Sec. 1. RCW 67.16.100 and 1998 c 345 s 5 are each amended to read as follows:

(1) All sums paid to the commission under this chapter, including those sums collected for license fees and excluding those sums collected under RCW 67.16.102 and 67.16.105(3), ~~((shall))~~ must be disposed of by the commission as follows: One hundred percent thereof ~~((shall))~~ must be retained by the commission for the payment of the salaries of its members, secretary, clerical, office, and other help and all expenses incurred in carrying out the provisions of this chapter. ~~((No salary, wages, expenses, or compensation of any kind shall be paid by the state in connection with the work of the commission.))~~

(2) Any moneys collected or paid to the commission under the terms of this chapter and not expended at the close of the fiscal biennium ~~((shall))~~ must be paid to the state treasurer and be placed in the fair fund created in RCW 15.76.115. The commission may, with the approval of the office of financial management, retain any sum required for working capital.

NEW SECTION. **Sec. 2.** This act expires June 30, 2023.

Passed by the House April 22, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 150

[Substitute House Bill 1107]

NONRESIDENT VESSEL PERMITS—VARIOUS PROVISIONS

AN ACT Relating to expanding certain nonresident vessel permit provisions; amending RCW 88.02.620, 88.02.640, and 82.32.865; amending 2017 c 323 §§ 302 and 303 (uncodified); adding a new section to chapter 82.12 RCW; and providing expiration dates.

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

Sec. 1. RCW 88.02.620 and 2015 3rd sp.s. c 6 s 802 are each amended to read as follows:

(1) A vessel owner who is a nonresident person must obtain a nonresident vessel permit on or before the sixty-first day of use in Washington state if the vessel:

(a) Is currently registered or numbered under the laws of the state or county of principal operation ~~((or))~~, has been issued a valid number under federal law, or has a valid United States customs service cruising license issued under 19 C.F.R. Sec. 4.94; and

(b) Has been brought into Washington state ~~((for personal use))~~ for not more than six months in any continuous twelve-month period, and is used:

(i) For personal use; or

(ii) For the purposes of chartering a vessel with a captain or crew, as long as individual charters are for at least three or more consecutive days in duration. The permit also applies for the purposes of necessary transit to or from the start or end point of such a charter, but that transit time is not counted toward the duration of the charter.

(2) In addition to the requirements in subsection (1) of this section, a nonresident vessel owner that is not a natural person, or a nonresident vessel owner who is a natural person who intends to charter the vessel with a captain or crew as provided in subsection (1)(b)(ii) of this section, may only obtain a nonresident vessel permit if:

(a) The vessel is at least thirty feet in length, but no more than ~~((one))~~ two hundred ~~((sixty-four))~~ feet in length;

(b) No Washington state resident owns the vessel or is a principal, as defined in RCW 82.32.865, of the nonresident person which owns the vessel; and

(c) The department of revenue has provided the nonresident vessel owner written approval authorizing the permit as provided in RCW 82.32.865.

(3) A nonresident vessel permit:

(a) May be obtained from the department, county auditor or other agent, or subagent appointed by the director;

(b) Must show the date the vessel first came into Washington state; and

(c) Is valid for two months ~~((and~~

~~((may not be issued after December 31, 2025, to a nonresident vessel owner that is not a natural person))).~~

(4) The department, county auditor or other agent, or subagent appointed by the director must collect the fee required in RCW 88.02.640(1)(i) when issuing nonresident vessel permits.

(5) A nonresident vessel permit is not required under this section if the vessel is used in conducting temporary business activity within Washington state.

(6) For any permits issued under this section to a nonresident vessel owner that is not a natural person, or for any permits issued to a natural person who intends to charter the vessel with a captain or crew as provided in subsection (1)(b)(ii) of this section, the department must maintain a record of the following information and provide it to the department of revenue quarterly or as otherwise mutually agreed to by the department and department of revenue:

- (a) The name of the record owner of the vessel;
- (b) The vessel's hull identification number;
- (c) The amount of the fee paid under RCW 88.02.640(5);
- (d) The date the vessel first entered the waters of this state;
- (e) The expiration date for the permit; and
- (f) Any other information mutually agreed to by the department and department of revenue.

(7) The department must adopt rules to implement this section, including rules on issuing and displaying the nonresident vessel permit.

Sec. 2. RCW 88.02.640 and 2017 3rd sp.s. c 17 s 104 are each amended to read as follows:

(1) In addition to any other fees and taxes required by law, the department, county auditor or other agent, or subagent appointed by the director must charge the following vessel fees and surcharge:

FEE	AMOUNT	AUTHORITY	DISTRIBUTION
(a) Dealer temporary permit	\$5.00	RCW 88.02.800(2)	General fund
(b) Derelict vessel and invasive species removal	Subsection (3) of this section	Subsection (3) of this section	Subsection (3) of this section
(c) Derelict vessel removal surcharge	\$1.00	Subsection (4) of this section	Subsection (4) of this section
(d) Duplicate certificate of title	\$1.25	RCW 88.02.530(1)(c)	General fund
(e) Duplicate registration	\$1.25	RCW 88.02.590(1)(c)	General fund
(f) Filing	RCW 46.17.005	RCW 88.02.560(2)	RCW 46.68.400
(g) License plate technology	RCW 46.17.015	RCW 88.02.560(2)	RCW 46.68.370
(h) License service	RCW 46.17.025	RCW 88.02.560(2)	RCW 46.68.220

FEE	AMOUNT	AUTHORITY	DISTRIBUTION
(i) Nonresident vessel permit	Subsection (5) of this section	RCW 88.02.620(4)	Subsection (5) of this section
(j) Quick title service	\$50.00	RCW 88.02.540(3)	Subsection (7) of this section
(k) Registration	\$10.50	RCW 88.02.560(2)	RCW 88.02.650
(l) Replacement decal	\$1.25	RCW 88.02.595(1)(c)	General fund
(m) Service fee	RCW 46.17.040	RCW 88.02.515 and 88.02.560(2)	RCW 46.17.040
(n) Title application	\$5.00	RCW 88.02.515	General fund
(o) Transfer	\$1.00	RCW 88.02.560(7)	General fund
(p) Vessel visitor permit	\$30.00	RCW 88.02.610(3)	Subsection (6) of this section

(2) The five dollar dealer temporary permit fee required in subsection (1) of this section must be credited to the payment of registration fees at the time application for registration is made.

(3) The derelict vessel and invasive species removal fee required in subsection (1) of this section is five dollars and must be distributed as follows:

(a) Two dollars must be deposited in the aquatic invasive species management account created in RCW 77.135.200;

(b) One dollar must be deposited into the aquatic algae control account created in RCW 43.21A.667; and

(c) Two dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100.

(4) In addition to other fees required in this section, an annual derelict vessel removal surcharge of one dollar must be charged with each vessel registration. The surcharge is to address the significant backlog of derelict vessels accumulated in Washington waters that pose a threat to the health and safety of the people and to the environment and must be deposited into the derelict vessel removal account created in RCW 79.100.100.

(5)(a) The amount of the nonresident vessel permit fee is:

(i) For a vessel owned by a nonresident natural person, twenty-five dollars; and

(ii) For a nonresident vessel owner that is not a natural person, the fee is equal to:

(A) Twenty-five dollars per foot for vessels between thirty and ninety-nine feet in length;

(B) Thirty dollars per foot for vessels between one hundred and one hundred twenty feet in length; and

(C) Thirty-seven dollars and fifty cents per foot for vessels between one hundred twenty-one and ~~((one))~~ two hundred ~~((sixty-four))~~ feet in length. The fee must be multiplied by the extreme length of the vessel in feet, rounded up to the nearest whole foot.

(b) The fee must be paid by the vessel owner to the department. Any moneys remaining from the fee after the payment of costs to administer the permit must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.650.

(c) ~~((A nonresident vessel owner that is not a natural person may not obtain more than two nonresident vessel permits under RCW 88.02.620 within any thirty-six month period))~~ In addition to the applicable fees under this section, vessel owners who obtain a nonresident vessel permit for the purposes of chartering their vessel with a captain or crew are subject to use tax as provided in section 6 of this act.

(6) The thirty dollar vessel visitor permit fee must be distributed as follows:

(a) Five dollars must be deposited in the derelict vessel removal account created in RCW 79.100.100;

(b) The department may keep an amount to cover costs for providing the vessel visitor permit;

(c) Any moneys remaining must be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.650; and

(d) Any fees required for licensing agents under RCW 46.17.005 are in addition to any other fee or tax due for the titling and registration of vessels.

(7)(a) The fifty dollar quick title service fee must be distributed as follows:

(i) If the fee is paid to the director, the fee must be deposited to the general fund.

(ii) If the fee is paid to the participating county auditor or other agent appointed by the director, twenty-five dollars must be deposited to the general fund. The remainder must be retained by the county treasurer in the same manner as other fees collected by the county auditor.

(iii) If the fee is paid to a subagent appointed by the director, twenty-five dollars must be deposited to the general fund. The remaining twenty-five dollars must be distributed as follows: Twelve dollars and fifty cents must be retained by the county treasurer in the same manner as other fees collected by the county auditor and twelve dollars and fifty cents must be retained by the subagent.

(b) For the purposes of this subsection, "quick title" has the same meaning as in RCW 88.02.540.

(8) The department, county auditor or other agent, or subagent appointed by the director shall charge the service fee under subsection (1)(m) of this section beginning January 1, 2016.

Sec. 3. RCW 82.32.865 and 2015 3rd sp.s. c 6 s 805 are each amended to read as follows:

(1) A nonresident vessel owner that is not a natural person, or a nonresident vessel owner who intends to charter the vessel with a captain or crew as provided in RCW 88.02.620(1)(b)(ii), must apply directly to the department for written approval to obtain a nonresident vessel permit under RCW 88.02.620. The application must be made to the department in a form and manner prescribed by the department and must include:

(a) The name of the record owner of the vessel;

(b) The name, address, and telephone number of the individual that applied for the permit (~~on behalf of the nonresident person~~);

(c) The record owner's address and telephone number;

(d) The vessel's hull identification number;

(e) The vessel year, make, and model;

(f) The vessel length;

(g) The vessel's registration or numbering under the state of principal operation or the valid number under federal law;

(h) Proof of the person's current nonresident status, including, as applicable, certified copies of the filed articles of incorporation, a certificate of formation, or similar filings;

(i) Proof of the identity and current residency of the natural person owning the charter vessel or all principals of the nonresident person owning the vessel. Such proof may include a valid driver's license verifying out-of-state residency or a valid identification card that has a photograph of the holder and is issued by an out-of-state jurisdiction;

(j) An affidavit signed by (~~a principal~~) the owner of the nonresident charter vessel (~~owner~~), or by a principal of the entity owning the nonresident vessel, certifying that the owner is not a Washington resident or that no Washington residents are principals of the nonresident vessel owner, as the case may be; and

(k) Any other information the department may require.

(2) The department must determine the nonresident vessel owner's eligibility for the permit, as provided in RCW 88.02.620(~~, and may request additional information as needed directly from the nonresident vessel owner~~). The department may require additional proof of eligibility directly from the nonresident vessel owner.

(3)(a) If the department determines that the nonresident vessel owner (~~appears~~) has established by clear, cogent, and convincing evidence that it is eligible for the permit, the department must provide written approval to the nonresident vessel owner that authorizes issuance of the permit and includes the name of the nonresident vessel owner, the name of the vessel, and the hull identification number. (~~After November 30, 2025, the department may not provide written approval for any permits under this subsection.~~) Otherwise, the department must refuse to authorize the issuance of the permit.

(b) The department must also provide the information in the written approval to the department of licensing.

(4)(a) If, after a permit has been issued under RCW 88.02.620, the department has reason to believe that the nonresident vessel owner was not eligible for the permit approved under subsection (3) of this section, the department may request such information from the nonresident vessel owner as the department determines is necessary to conduct a review of the nonresident vessel owner's eligibility.

(b) If the department finds the nonresident person was not eligible for the permit, the department must assess against the nonresident person state and local use tax on the value of the vessel according to the "value of the article used" as defined in RCW 82.12.010. The department must also assess against the nonresident person any watercraft excise tax due under chapter 82.49 RCW.

Penalties and interest as provided in this chapter and chapter 82.49 RCW apply to taxes assessed under this subsection (4).

(5) For purposes of this section, "principal" means a natural person that owns, directly or indirectly, including through any tiered ownership structure, more than a one percent interest in the nonresident person applying for a nonresident vessel permit.

(6) By January 1, 2026, the department must submit a report to the governor and the transportation and fiscal committees of the legislature. The report must include:

(a) The number of nonresident vessel permits the department authorized for approval in each calendar year since September 1, 2015, and the length of such vessels;

(b) The number of nonresident vessel permits the department authorized for approval in each calendar year since the effective date of this section for vessels chartered with a captain or crew;

(c) Information about the state or country where the vessels described in (a) and (b) of this subsection are primarily operated;

(d) The amount of use tax collected on vessels described in (b) of this subsection;

(e) A discussion of any evidence of fraud or attempted fraud related to nonresident vessel permits or permit applications; and

(f) Any other information the department determines may be relevant.

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

Sec. 4. 2017 c 323 s 302 (uncodified) is amended to read as follows:

(1) Sections 802 and 804, chapter 6, Laws of 2015 3rd sp. sess. expire ~~((July)) January 1, ((2026)) 2029;~~

(2) Section 803, chapter 6, Laws of 2015 3rd sp. sess. expires January 1, ~~((2026)) 2029;~~ and

(3) Section 805, chapter 6, Laws of 2015 3rd sp. sess. expires January 1, 2031.

Sec. 5. 2017 c 323 s 303 (uncodified) is amended to read as follows:

(1)(a) The legislature finds that a robust maritime industry is crucial for the state's economic vitality. The legislature further finds that:

(i) The joint task force for economic resilience of maritime and manufacturing established policy goals to continue efforts towards developing a robust maritime industry in the state;

(ii) The maritime industry has a direct and indirect impact on jobs in the state;

(iii) Many of the cities and towns impacted by the maritime industry are often small with limited resources to encourage economic growth, heavily relying on the maritime industry for local jobs and revenues in the community;

(iv) Keeping Washington competitive with other cruising destinations is essential to continue to build a robust maritime economy in the state; and

(v) Tax incentives are an imperative component to improve the state's overall competitiveness in this sector.

(b) Therefore, the legislature intends to:

(i) Bolster the maritime industry in the state by incentivizing larger vessel owners to use Washington waters for recreational boating to increase economic activity and jobs in coastal communities and inland water regions of the state;

(ii) Achieve this objective in a fiscally responsible manner and require analysis of specific metrics to ensure valuable state resources are being used to accomplish the intended goal; and

(iii) Provide limited, short-term tax relief to entity-owned nonresident vessel owners that currently are not afforded the same benefits as other nonresident vessel owners.

(2)(a) This subsection is the tax preference performance statement for the entity-owned nonresident vessel tax preference established in section 803 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.

(b) The legislature categorizes this tax preference as one intended to accomplish the purposes indicated in RCW 82.32.808(2)(c) and one intended to improve the state's competitiveness with other nearby cruising destinations.

(c) It is the legislature's specific public policy objective to increase economic activity and jobs related to the maritime industry by providing a tax preference for large entity-owned nonresident vessels to increase the length of time these vessels cruise Washington waters in turn strengthening the maritime economy in the state.

(d) To measure the effectiveness of the tax preference provided in part VIII, chapter 6, Laws of 2015 3rd sp. sess. in achieving the public policy objective in (c) of this subsection, the joint legislative audit and review committee must provide the following in a published evaluation of this tax preference by December 31, (~~2024~~) 2028:

(i) A comparison of the gross and taxable revenue generated by businesses that sell or provide maintenance or repair of vessels, prior to and after the enactment of this tax preference;

(ii) Analysis of retail sales taxes collected from the restaurant and service industries in coastal and inlet coastal jurisdictions, for both counties and cities, for periods prior to and after the enactment of this tax preference;

(iii) Employment and wage trends for businesses described in (d)(i) and (ii) of this subsection, for periods prior to and after the enactment of this tax preference;

(iv) Descriptive statistics for the number of permits sold each year in addition to the following information:

(A) The cost for each permit by strata of vessel length;

(B) The jurisdiction of ownership for the nonresident vessel; and

(C) The amount of use tax that would have been due based on the estimated value of the vessel;

(v) A comparison of the number of registered entity-owned and individually owned vessels registered in Washington prior to and after the enactment of this tax preference; and

(vi) Data and analysis for Washington's main cruising destination competitors, specifically looking at tax preferences provided in those

jurisdictions, vessel industry income data, and any additional relevant information to compare Washington's maritime climate with its competitors.

(e) The provision of RCW 82.32.808(5) does not apply to this tax preference.

NEW SECTION. Sec. 6. A new section is added to chapter 82.12 RCW to read as follows:

(1) Except as otherwise provided in this section, the provisions of this chapter do not apply to the use of a vessel exempt from registration under RCW 88.02.570(12).

(2) The use of a vessel exempt from registration under RCW 88.02.570(12) for chartering with a captain or crew is subject to the tax imposed in RCW 82.12.020 based on the reasonable bare rental value of the vessel as provided in RCW 82.12.010(7)(c).

(3) This section expires January 1, 2029.

NEW SECTION. Sec. 7. Sections 1 through 3 of this act expire January 1, 2029.

Passed by the House April 13, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 151

[Engrossed Substitute House Bill 1108]

FORECLOSURES—VARIOUS PROVISIONS

AN ACT Relating to maintaining funding and assistance for homeowners navigating the foreclosure process; amending RCW 61.24.005, 61.24.030, 61.24.031, 61.24.135, 61.24.165, 61.24.166, 61.24.172, and 61.24.173; adding a new section to chapter 61.24 RCW; adding a new section to chapter 42.56 RCW; creating new sections; repealing RCW 61.24.173; providing effective dates; providing an expiration date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that whether mediation, reporting, and payment provisions of the foreclosure fairness act apply to any particular beneficiary in a given year is tied to the number of trustee's sales and number of notices of trustee's sale recorded in the preceding year. The legislature further finds that, due to the federal foreclosure moratorium in place from at least March of 2020 through December of 2020 and into the year 2021, it is likely that, absent legislative action, the mediation, reporting, and payment provisions of the foreclosure fairness act will apply to very few if any beneficiaries in calendar year 2021 or 2022 because the threshold numbers that trigger application of these provisions will not be met. The legislature therefore intends to put in place a temporary stopgap remedy so that vital assistance provisions of the foreclosure fairness act are not lost at the very time that foreclosure activity is likely to be increasing.

Sec. 2. RCW 61.24.005 and 2014 c 164 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) "Affiliate of beneficiary" means any entity which controls, is controlled by, or is under common control with a beneficiary.

(2) "Beneficiary" means the holder of the instrument or document evidencing the obligations secured by the deed of trust, excluding persons holding the same as security for a different obligation.

(3) "Borrower" means a person or a general partner in a partnership, including a joint venture, that is liable for all or part of the obligations secured by the deed of trust under the instrument or other document that is the principal evidence of such obligations, or the person's successors if they are liable for those obligations under a written agreement with the beneficiary.

(4) "Commercial loan" means a loan that is not made primarily for personal, family, or household purposes.

(5) "Department" means the department of commerce or its designee.

(6) "Fair value" means the value of the property encumbered by a deed of trust that is sold pursuant to a trustee's sale. This value shall be determined by the court or other appropriate adjudicator by reference to the most probable price, as of the date of the trustee's sale, which would be paid in cash or other immediately available funds, after deduction of prior liens and encumbrances with interest to the date of the trustee's sale, for which the property would sell on such date after reasonable exposure in the market under conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under duress.

(7) "Grantor" means a person, or its successors, who executes a deed of trust to encumber the person's interest in property as security for the performance of all or part of the borrower's obligations.

(8) "Guarantor" means any person and its successors who is not a borrower and who guarantees any of the obligations secured by a deed of trust in any written agreement other than the deed of trust.

(9) "Housing counselor" means a housing counselor that has been approved by the United States department of housing and urban development or approved by the Washington state housing finance commission.

(10) "Owner-occupied" means property that is the principal residence of the borrower.

(11) "Person" means any natural person, or legal or governmental entity.

(12) "Record" and "recorded" includes the appropriate registration proceedings, in the instance of registered land.

(13) "Residential real property" means property consisting solely of a single-family residence, a residential condominium unit, or a residential cooperative unit. For the purposes of the application of RCW 61.24.163, ~~((owner-occupied))~~ residential real property includes residential real property of up to four units.

(14) "Senior beneficiary" means the beneficiary of a deed of trust that has priority over any other deeds of trust encumbering the same residential real property.

(15) "Tenant-occupied property" means property consisting solely of residential real property that is the principal residence of a tenant subject to chapter 59.18 RCW or other building with four or fewer residential units that is the principal residence of a tenant subject to chapter 59.18 RCW.

(16) "Trustee" means the person designated as the trustee in the deed of trust or appointed under RCW 61.24.010(2).

(17) "Trustee's sale" means a nonjudicial sale under a deed of trust undertaken pursuant to this chapter.

Sec. 3. RCW 61.24.030 and 2018 c 306 s 1 are each amended to read as follows:

It shall be requisite to a trustee's sale:

(1) That the deed of trust contains a power of sale;

(2) That the deed of trust contains a statement that the real property conveyed is not used principally for agricultural purposes; provided, if the statement is false on the date the deed of trust was granted or amended to include that statement, and false on the date of the trustee's sale, then the deed of trust must be foreclosed judicially. Real property is used for agricultural purposes if it is used in an operation that produces crops, livestock, or aquatic goods;

(3) That a default has occurred in the obligation secured or a covenant of the grantor, which by the terms of the deed of trust makes operative the power to sell;

(4) That no action commenced by the beneficiary of the deed of trust is now pending to seek satisfaction of an obligation secured by the deed of trust in any court by reason of the grantor's default on the obligation secured: PROVIDED, That (a) the seeking of the appointment of a receiver, or the filing of a civil case to obtain court approval to access, secure, maintain, and preserve property from waste or nuisance, shall not constitute an action for purposes of this chapter; and (b) if a receiver is appointed, the grantor shall be entitled to any rents or profits derived from property subject to a homestead as defined in RCW 6.13.010. If the deed of trust was granted to secure a commercial loan, this subsection shall not apply to actions brought to enforce any other lien or security interest granted to secure the obligation secured by the deed of trust being foreclosed;

(5) That the deed of trust has been recorded in each county in which the land or some part thereof is situated;

(6) That prior to the date of the notice of trustee's sale and continuing thereafter through the date of the trustee's sale, the trustee must maintain a street address in this state where personal service of process may be made, and the trustee must maintain a physical presence and have telephone service at such address;

(7)(a) That, for residential real property of up to four units, before the notice of trustee's sale is recorded, transmitted, or served, the trustee shall have proof that the beneficiary is the holder of any promissory note or other obligation secured by the deed of trust. A declaration by the beneficiary made under the penalty of perjury stating that the beneficiary is the holder of any promissory note or other obligation secured by the deed of trust shall be sufficient proof as required under this subsection.

(b) Unless the trustee has violated his or her duty under RCW 61.24.010(4), the trustee is entitled to rely on the beneficiary's declaration as evidence of proof required under this subsection.

(c) This subsection (7) does not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW;

(8) That at least thirty days before notice of sale shall be recorded, transmitted or served, written notice of default and, for residential real property

of up to four units, the beneficiary declaration specified in subsection (7)(a) of this section shall be transmitted by the beneficiary or trustee to the borrower and grantor at their last known addresses by both first-class and either registered or certified mail, return receipt requested, and the beneficiary or trustee shall cause to be posted in a conspicuous place on the premises, a copy of the notice, or personally served on the borrower and grantor. This notice shall contain the following information:

- (a) A description of the property which is then subject to the deed of trust;
- (b) A statement identifying each county in which the deed of trust is recorded and the document number given to the deed of trust upon recording by each county auditor or recording officer;
- (c) A statement that the beneficiary has declared the borrower or grantor to be in default, and a concise statement of the default alleged;
- (d) An itemized account of the amount or amounts in arrears if the default alleged is failure to make payments;
- (e) An itemized account of all other specific charges, costs, or fees that the borrower, grantor, or any guarantor is or may be obliged to pay to reinstate the deed of trust before the recording of the notice of sale;
- (f) A statement showing the total of (d) and (e) of this subsection, designated clearly and conspicuously as the amount necessary to reinstate the note and deed of trust before the recording of the notice of sale;
- (g) A statement that failure to cure the alleged default within thirty days of the date of mailing of the notice, or if personally served, within thirty days of the date of personal service thereof, may lead to recordation, transmittal, and publication of a notice of sale, and that the property described in (a) of this subsection may be sold at public auction at a date no less than one hundred twenty days in the future, or no less than one hundred fifty days in the future if the borrower received a letter under RCW 61.24.031;
- (h) A statement that the effect of the recordation, transmittal, and publication of a notice of sale will be to (i) increase the costs and fees and (ii) publicize the default and advertise the grantor's property for sale;
- (i) A statement that the effect of the sale of the grantor's property by the trustee will be to deprive the grantor of all their interest in the property described in (a) of this subsection;
- (j) A statement that the borrower, grantor, and any guarantor has recourse to the courts pursuant to RCW 61.24.130 to contest the alleged default on any proper ground;
- (k) In the event the property secured by the deed of trust is (~~owner-occupied~~) residential real property of up to four units, a statement, prominently set out at the beginning of the notice, which shall state as follows:

**"THIS NOTICE IS ONE STEP IN A PROCESS THAT COULD RESULT
IN YOUR
LOSING YOUR HOME.**

You may be eligible for mediation in front of a neutral third party to help save your home.

**CONTACT A HOUSING COUNSELOR OR AN ATTORNEY LICENSED
IN WASHINGTON NOW** to assess your situation and refer you to mediation if

you might benefit. Mediation **MUST** be requested between the time you receive the Notice of Default and no later than twenty days after the Notice of Trustee Sale is recorded.

DO NOT DELAY. If you do nothing, a notice of sale may be issued as soon as 30 days from the date of this notice of default. The notice of sale will provide a minimum of 120 days' notice of the date of the actual foreclosure sale.

BE CAREFUL of people who claim they can help you. There are many individuals and businesses that prey upon borrowers in distress.

REFER TO THE CONTACTS BELOW for sources of assistance.

SEEKING ASSISTANCE

Housing counselors and legal assistance may be available at little or no cost to you. If you would like assistance in determining your rights and opportunities to keep your house, you may contact the following:

The statewide foreclosure hotline for assistance and referral to housing counselors recommended by the Housing Finance Commission

Telephone: Website:

The United States Department of Housing and Urban Development

Telephone: Website:

The statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys

Telephone: Website:"

The beneficiary or trustee shall obtain the toll-free numbers and website information from the department for inclusion in the notice;

(l) In the event the property secured by the deed of trust is residential real property of up to four units, the name and address of the holder of any promissory note or other obligation secured by the deed of trust and the name, address, and telephone number of a party acting as a servicer of the obligations secured by the deed of trust;

(m) For notices issued after June 30, 2018, on the top of the first page of the notice:

- (i) The current beneficiary of the deed of trust;
- (ii) The current mortgage servicer for the deed of trust; and
- (iii) The current trustee for the deed of trust;

(9) That, for (~~owner-occupied~~) residential real property of up to four units, before the notice of the trustee's sale is recorded, transmitted, or served, the beneficiary has complied with RCW 61.24.031 and, if applicable, RCW 61.24.163;

(10) That, in the case where the borrower or grantor is known to the mortgage servicer or trustee to be deceased, the notice required under subsection (8) of this section must be sent to any spouse, child, or parent of the borrower or grantor known to the trustee or mortgage servicer, and to any owner of record of the property, at any address provided to the trustee or mortgage servicer, and to the property addressed to the heirs and devisees of the borrower.

(a) If the name or address of any spouse, child, or parent of such deceased borrower or grantor cannot be ascertained with use of reasonable diligence, the

trustee must execute and record with the notice of sale a declaration attesting to the same.

(b) Reasonable diligence for the purposes of this subsection (10) means the trustee shall search in the county where the property is located, the public records and information for any obituary, will, death certificate, or case in probate within the county for the borrower and grantor;

(11) Upon written notice identifying the property address and the name of the borrower to the servicer or trustee by someone claiming to be a successor in interest to the borrower's or grantor's property rights, but who is not a party to the loan or promissory note or other obligation secured by the deed of trust, a trustee shall not record a notice of sale pursuant to RCW 61.24.040 until the trustee or mortgage servicer completes the following:

(a) Acknowledges the notice in writing and requests reasonable documentation of the death of the borrower or grantor from the claimant including, but not limited to, a death certificate or other written evidence of the death of the borrower or grantor. The claimant must be allowed thirty days from the date of this request to present this documentation. If the trustee or mortgage servicer has already obtained sufficient proof of the borrower's death, it may proceed by acknowledging the claimant's notice in writing and issuing a request under (b) of this subsection.

(b) If the mortgage servicer or trustee obtains or receives written documentation of the death of the borrower or grantor from the claimant, or otherwise independently confirms the death of the borrower or grantor, then the servicer or trustee must request in writing documentation from the claimant demonstrating the ownership interest of the claimant in the real property. A claimant has sixty days from the date of the request to present this documentation.

(c) If the mortgage servicer or trustee receives written documentation demonstrating the ownership interest of the claimant prior to the expiration of the sixty days provided in (b) of this subsection, then the servicer or trustee must, within twenty days of receipt of proof of ownership interest, provide the claimant with, at a minimum, the loan balance, interest rate and interest reset dates and amounts, balloon payments if any, prepayment penalties if any, the basis for the default, the monthly payment amount, reinstatement amounts or conditions, payoff amounts, and information on how and where payments should be made. The mortgage servicers shall also provide the claimant application materials and information, or a description of the process, necessary to request a loan assumption and modification.

(d) Upon receipt by the trustee or the mortgage servicer of the documentation establishing claimant's ownership interest in the real property, that claimant shall be deemed a "successor in interest" for the purposes of this section.

(e) There may be more than one successor in interest to the borrower's property rights. The trustee and mortgage servicer shall apply the provisions of this section to each successor in interest. In the case of multiple successors in interest, where one or more do not wish to assume the loan as coborrowers or coapplicants, a mortgage servicer may require any nonapplicant successor in interest to consent in writing to the application for loan assumption.

(f) The existence of a successor in interest under this section does not impose an affirmative duty on a mortgage servicer or alter any obligation the mortgage servicer has to provide a loan modification to the successor in interest. If a successor in interest assumes the loan, he or she may be required to otherwise qualify for available foreclosure prevention alternatives offered by the mortgage servicer.

(g) (c), (e), and (f) of this subsection (11) do not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW; and

(12) Nothing in this section shall prejudice the right of the mortgage servicer or beneficiary from discontinuing any foreclosure action initiated under the deed of trust act in favor of other allowed methods for pursuit of foreclosure of the security interest or deed of trust security interest.

Sec. 4. RCW 61.24.031 and 2014 c 164 s 2 are each amended to read as follows:

(1)(a) A trustee, beneficiary, or authorized agent may not issue a notice of default under RCW 61.24.030(8) until: (i) Thirty days after satisfying the due diligence requirements as described in subsection (5) of this section and the borrower has not responded; or (ii) if the borrower responds to the initial contact, ninety days after the initial contact with the borrower was initiated.

(b) A beneficiary or authorized agent shall make initial contact with the borrower by letter to provide the borrower with information required under (c) of this subsection and by telephone as required under subsection (5) of this section. The letter required under this subsection must be mailed in accordance with subsection (5)(a) of this section and must include the information described in (c) of this subsection and subsection (5)(e)(i) through (iv) of this section.

(c) The letter required under this subsection, developed by the department pursuant to RCW 61.24.033, at a minimum shall include:

(i) A paragraph printed in no less than twelve-point font and bolded that reads:

"You must respond within thirty days of the date of this letter. IF YOU DO NOT RESPOND within thirty days, a notice of default may be issued and you may lose your home in foreclosure.

IF YOU DO RESPOND within thirty days of the date of this letter, you will have an additional sixty days to meet with your lender before a notice of default may be issued.

You should contact a housing counselor or attorney as soon as possible. Failure to contact a housing counselor or attorney may result in your losing certain opportunities, such as meeting with your lender or participating in mediation in front of a neutral third party. A housing counselor or attorney can help you work with your lender to avoid foreclosure.

If you filed bankruptcy or have been discharged in bankruptcy, this communication is not intended as an attempt to collect a debt from you personally, but is notice of enforcement of the deed of trust lien against the property. If you wish to avoid foreclosure and keep your property, this notice sets forth your rights and options.";

(ii) The toll-free telephone number from the United States department of housing and urban development to find a department-approved housing counseling agency, the toll-free numbers for the statewide foreclosure hotline

recommended by the housing finance commission, and the statewide civil legal aid hotline for assistance and referrals to other housing counselors and attorneys;

(iii) A paragraph stating that a housing counselor may be available at little or no cost to the borrower and that whether or not the borrower contacts a housing counselor or attorney, the borrower has the right to request a meeting with the beneficiary; and

(iv) A paragraph explaining how the borrower may respond to the letter and stating that after responding the borrower will have an opportunity to meet with his or her beneficiary in an attempt to resolve and try to work out an alternative to the foreclosure and that, after ninety days from the date of the letter, a notice of default may be issued, which starts the foreclosure process.

(d) If the beneficiary has exercised due diligence as required under subsection (5) of this section and the borrower does not respond by contacting the beneficiary within thirty days of the initial contact, the notice of default may be issued. "Initial contact" with the borrower is considered made three days after the date the letter required in (b) of this subsection is sent.

(e) If a meeting is requested by the borrower or the borrower's housing counselor or attorney, the beneficiary or authorized agent shall schedule the meeting to occur before the notice of default is issued. An assessment of the borrower's financial ability to modify or restructure the loan obligation and a discussion of options must occur during the meeting scheduled for that purpose.

(f) The meeting scheduled to assess the borrower's financial ability to modify or restructure the loan obligation and discuss options to avoid foreclosure may be held telephonically, unless the borrower or borrower's representative requests in writing that a meeting be held in person. The written request for an in-person meeting must be made within thirty days of the initial contact with the borrower. If the meeting is requested to be held in person, the meeting must be held in the county where the property is located unless the parties agree otherwise. A person who is authorized to agree to a resolution, including modifying or restructuring the loan obligation or other alternative resolution to foreclosure on behalf of the beneficiary, must be present either in person or on the telephone or videoconference during the meeting.

(2) A notice of default issued under RCW 61.24.030(8) must include a declaration, as provided in subsection (9) of this section, from the beneficiary or authorized agent that it has contacted the borrower as provided in subsection (1) of this section, it has tried with due diligence to contact the borrower under subsection (5) of this section, or the borrower has surrendered the property to the trustee, beneficiary, or authorized agent. Unless the trustee has violated his or her duty under RCW 61.24.010(4), the trustee is entitled to rely on the declaration as evidence that the requirements of this section have been satisfied, and the trustee is not liable for the beneficiary's or its authorized agent's failure to comply with the requirements of this section.

(3) If, after the initial contact under subsection (1) of this section, a borrower has designated a housing counseling agency, housing counselor, or attorney to discuss with the beneficiary or authorized agent, on the borrower's behalf, options for the borrower to avoid foreclosure, the borrower shall inform the beneficiary or authorized agent and provide the contact information to the beneficiary or authorized agent. The beneficiary or authorized agent shall contact the designated representative for the borrower to meet.

(4) The beneficiary or authorized agent and the borrower or the borrower's representative shall attempt to reach a resolution for the borrower within the ninety days from the time the initial contact is sent and the notice of default is issued. A resolution may include, but is not limited to, a loan modification, an agreement to conduct a short sale, or a deed in lieu of foreclosure transaction, or some other workout plan. Any modification or workout plan offered at the meeting with the borrower's designated representative by the beneficiary or authorized agent is subject to approval by the borrower.

(5) A notice of default may be issued under RCW 61.24.030(8) if a beneficiary or authorized agent has initiated contact with the borrower as required under subsection (1)(b) of this section and the failure to meet with the borrower occurred despite the due diligence of the beneficiary or authorized agent. Due diligence requires the following:

(a) A beneficiary or authorized agent shall first attempt to contact a borrower by sending, by both first-class and either registered or certified mail, return receipt requested, a letter to the address in the beneficiary's records for sending account statements to the borrower and to the address of the property encumbered by the deed of trust. The letter must be the letter described in subsection (1)(c) of this section.

(b)(i) After the letter has been sent, the beneficiary or authorized agent shall attempt to contact the borrower by telephone at least three times at different hours and on different days. Telephone calls must be made to the primary and secondary telephone numbers on file with the beneficiary or authorized agent.

(ii) A beneficiary or authorized agent may attempt to contact a borrower using an automated system to dial borrowers if the telephone call, when answered, is connected to a live representative of the beneficiary or authorized agent.

(iii) A beneficiary or authorized agent satisfies the telephone contact requirements of this subsection (5)(b) if the beneficiary or authorized agent determines, after attempting contact under this subsection (5)(b), that the borrower's primary telephone number and secondary telephone number or numbers on file, if any, have been disconnected or are not good contact numbers for the borrower.

(iv) The telephonic contact under this subsection (5)(b) does not constitute the meeting under subsection (1)(f) of this section.

(c) If the borrower does not respond within fourteen days after the telephone call requirements of (b) of this subsection have been satisfied, the beneficiary or authorized agent shall send a certified letter, with return receipt requested, to the borrower at the address in the beneficiary's records for sending account statements to the borrower and to the address of the property encumbered by the deed of trust. The letter must include the information described in (e)(i) through (iv) of this subsection. The letter must also include a paragraph stating: "Your failure to contact a housing counselor or attorney may result in your losing certain opportunities, such as meeting with your lender or participating in mediation in front of a neutral third party."

(d) The beneficiary or authorized agent shall provide a means for the borrower to contact the beneficiary or authorized agent in a timely manner, including a toll-free telephone number or charge-free equivalent that will

provide access to a live representative during business hours for the purpose of initiating and scheduling the meeting under subsection (1)(f) of this section.

(e) The beneficiary or authorized agent shall post a link on the home page of the beneficiary's or authorized agent's internet website, if any, to the following information:

(i) Options that may be available to borrowers who are unable to afford their mortgage payments and who wish to avoid foreclosure, and instructions to borrowers advising them on steps to take to explore those options;

(ii) A list of financial documents borrowers should collect and be prepared to present to the beneficiary or authorized agent when discussing options for avoiding foreclosure;

(iii) A toll-free telephone number or charge-free equivalent for borrowers who wish to discuss options for avoiding foreclosure with their beneficiary or authorized agent; and

(iv) The toll-free telephone number or charge-free equivalent made available by the department to find a department-approved housing counseling agency.

(6) Subsections (1) and (5) of this section do not apply if the borrower has surrendered the property as evidenced by either a letter confirming the surrender or delivery of the keys to the property to the trustee, beneficiary, or authorized agent.

(7)(a) This section applies only to deeds of trust that are recorded against ~~((owner-occupied))~~ residential real property of up to four units. This section does not apply to deeds of trust: (i) Securing a commercial loan; (ii) securing obligations of a grantor who is not the borrower or a guarantor; or (iii) securing a purchaser's obligations under a seller-financed sale.

(b) This section does not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW.

(8) As used in this section:

(a) "Department" means the United States department of housing and urban development.

(b) "Seller-financed sale" means a residential real property transaction where the seller finances all or part of the purchase price, and that financed amount is secured by a deed of trust against the subject residential real property.

(9) The form of declaration to be provided by the beneficiary or authorized agent as required under subsection (2) of this section must be in substantially the following form:

"FORECLOSURE LOSS MITIGATION FORM

Please select applicable option(s) below.

The undersigned beneficiary or authorized agent for the beneficiary hereby represents and declares under the penalty of perjury that [check the applicable box and fill in any blanks so that the beneficiary, authorized agent, or trustee can insert, on the beneficiary's behalf, the applicable declaration in the notice of default required under chapter 61.24 RCW]:

(1) [] The beneficiary or beneficiary's authorized agent has contacted the borrower under, and has complied with, RCW 61.24.031 (contact provision to "assess the borrower's financial ability to pay the debt secured by the deed of

trust and explore options for the borrower to avoid foreclosure") and the borrower responded but did not request a meeting.

(2) [] The beneficiary or beneficiary's authorized agent has contacted the borrower as required under RCW 61.24.031 and the borrower or the borrower's designated representative requested a meeting. A meeting was held on (insert date, time, and location/telephonic here) in compliance with RCW 61.24.031.

(3) [] The beneficiary or beneficiary's authorized agent has contacted the borrower as required in RCW 61.24.031 and the borrower or the borrower's designated representative requested a meeting. A meeting was scheduled for (insert date, time, and location/telephonic here) and neither the borrower nor the borrower's designated representative appeared.

(4) [] The beneficiary or beneficiary's authorized agent has exercised due diligence to contact the borrower as required in RCW 61.24.031(5) and the borrower did not respond.

(5) [] The borrower has surrendered the secured property as evidenced by either a letter confirming the surrender or by delivery of the keys to the secured property to the beneficiary, the beneficiary's authorized agent or to the trustee.

Additional Optional Explanatory Comments:

.....

Sec. 5. RCW 61.24.135 and 2016 c 196 s 3 are each amended to read as follows:

(1) It is an unfair or deceptive act or practice under the consumer protection act, chapter 19.86 RCW, for any person, acting alone or in concert with others, to offer, or offer to accept or accept from another, any consideration of any type not to bid, or to reduce a bid, at a sale of property conducted pursuant to a power of sale in a deed of trust. The trustee may decline to complete a sale or deliver the trustee's deed and refund the purchase price, if it appears that the bidding has been collusive or defective, or that the sale might have been void. However, it is not an unfair or deceptive act or practice for any person, including a trustee, to state that a property subject to a recorded notice of trustee's sale or subject to a sale conducted pursuant to this chapter is being sold in an "as-is" condition, or for the beneficiary to arrange to provide financing for a particular bidder or to reach any good faith agreement with the borrower, grantor, any guarantor, or any junior lienholder.

(2) It is an unfair or deceptive act in trade or commerce and an unfair method of competition in violation of the consumer protection act, chapter 19.86 RCW, for any person or entity to: (a) Violate the duty of good faith under RCW 61.24.163; (b) fail to comply with the requirements of RCW 61.24.174, as it existed prior to July 1, 2016, ~~(($\text{\textcircled{R}}$)) RCW 61.24.173, or section 11 of this act; or (c) fail to initiate contact with a borrower and exercise due diligence as required under RCW 61.24.031.~~

Sec. 6. RCW 61.24.165 and 2014 c 164 s 4 are each amended to read as follows:

(1) RCW 61.24.163 applies only to deeds of trust that are recorded against ~~((owner-occupied))~~ residential real property of up to four units. ~~((The property must have been owner-occupied as of the date the initial contact under RCW 61.24.031 was made.))~~

~~(2) ((A borrower under a deed of trust on owner-occupied residential real property who has received a notice of default on or before July 22, 2011, may be referred to mediation under RCW 61.24.163 by a housing counselor or attorney.~~

~~(3))~~ RCW 61.24.163 does not apply to deeds of trust:

(a) Securing a commercial loan;

(b) Securing obligations of a grantor who is not the borrower or a guarantor;
~~((or))~~

(c) Securing a purchaser's obligations under a seller-financed sale; or

(d) Where the grantor is a partnership, corporation, or limited liability company, or where the property is vested in a partnership, corporation, or limited liability company at the time the notice of default is issued.

~~((4))~~ (3) RCW 61.24.163 does not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW.

~~((5))~~ (4) For purposes of referral and mediation under RCW 61.24.163, a person may be referred to mediation if the borrower is deceased and the person is a successor in interest of the deceased borrower who occupies the property as his or her primary residence. The referring counselor or attorney must determine a person's eligibility under this section and indicate the grounds for eligibility on the referral to mediation submitted to the department. For the purposes of mediation under RCW 61.24.163, the person must be treated as a "borrower." This subsection does not impose an affirmative duty on the beneficiary to accept an assumption of the loan.

~~((6))~~ (5) For purposes of referral and mediation under RCW 61.24.163, a person may be referred to mediation if the person has been awarded title to the property in a proceeding for dissolution or legal separation. The referring counselor or attorney must determine the person's eligibility under this section and indicate the grounds for eligibility on the referral to mediation submitted to the department. For the purposes of mediation under RCW 61.24.163, the person must be treated as a "borrower." This subsection does not impose an affirmative duty on the beneficiary to accept an assumption of the loan.

Sec. 7. RCW 61.24.166 and 2011 c 58 s 9 are each amended to read as follows:

~~((The))~~ Beginning on January 1, 2023, the provisions of RCW 61.24.163 do not apply to any federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), that certifies to the department under penalty of perjury that it was not a beneficiary of deeds of trust in more than two hundred fifty trustee sales of ~~((owner-occupied))~~ residential real property of up to four units that occurred in this state during the preceding calendar year. A federally insured depository institution certifying that RCW 61.24.163 does not apply must do so annually, beginning no later than ~~((thirty days after July 22, 2011))~~ January 31, 2023, and no later than January 31st of each year thereafter.

NEW SECTION. Sec. 8. (1) During the 2021 calendar year, the provisions of RCW 61.24.163 do not apply to any federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), that certifies to the department under penalty of perjury that it was not a beneficiary of deeds of trust in more than 250 trustee sales of owner-occupied residential real property that occurred in this state during 2019. A federally insured depository institution certifying that RCW

61.24.163 does not apply pursuant to this subsection must do so no later than 30 days after the effective date of this section.

(2) During the 2022 calendar year, the provisions of RCW 61.24.163 do not apply to any federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), that certifies to the department under penalty of perjury that it was not a beneficiary of deeds of trust in more than 250 trustee sales of owner-occupied residential property that occurred in this state during 2019. A federally insured depository institution certifying that RCW 61.24.163 does not apply pursuant to this subsection must do so no later than January 31, 2022.

(3) This section expires December 31, 2022.

Sec. 9. RCW 61.24.172 and 2016 c 196 s 1 are each amended to read as follows:

The foreclosure fairness account is created in the custody of the state treasurer. All receipts received under RCW 61.24.174, as it existed prior to July 1, 2016, (~~and~~) RCW 61.24.173, and section 11 of this act must be deposited into the account. Only the director of the department of commerce or the director's designee may authorize expenditures from the account. Funding to agencies and organizations under this section must be provided by the department through an interagency agreement or other applicable contract instrument. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Biennial expenditures from the account must be used as follows: Four hundred thousand dollars to fund the counselor referral hotline. The remaining funds shall be distributed as follows: (1) Sixty-nine percent for the purposes of providing housing counseling activities to benefit borrowers; (2) eight percent to the office of the attorney general to be used by the consumer protection division to enforce this chapter; (3) six percent to the office of civil legal aid to be used for the purpose of contracting with qualified legal aid programs for legal representation of homeowners in matters relating to foreclosure. Funds provided under this subsection (3) must be used to supplement, not supplant, other federal, state, and local funds; and (4) seventeen percent to the department to be used for implementation and operation of the foreclosure fairness act.

The department shall enter into interagency agreements to contract with the Washington state housing finance commission and other appropriate entities to implement the foreclosure fairness act.

Sec. 10. RCW 61.24.173 and 2018 c 306 s 7 are each amended to read as follows:

(1) Except as provided in subsections (5) and (6) of this section, beginning July 1, 2016, and every quarter thereafter, every beneficiary on whose behalf a notice of trustee's sale has been recorded pursuant to RCW 61.24.040 on residential real property under this chapter must:

(a) Report to the department the number of notices of trustee's sale recorded for each residential property during the previous quarter;

(b) Remit the amount required under subsection (2) of this section; and

(c) Report and update beneficiary contact information for the person and work group responsible for the beneficiary's compliance with the requirements of the foreclosure fairness act created in this chapter.

(2) For each notice of trustee's sale recorded on residential real property, the beneficiary on whose behalf the notice of trustee's sale has been recorded shall remit ~~((three hundred twenty five dollars))~~ \$325 to the department to be deposited, as provided under RCW 61.24.172, into the foreclosure fairness account. The ~~((three hundred twenty five dollar))~~ \$325 payment is required for every recorded notice of trustee's sale for noncommercial loans on residential real property, but does not apply to the recording of an amended notice of trustee's sale. No later than January 1, 2020, the department may from time to time adjust the amount of the fee, not to exceed ~~((three hundred twenty five dollars))~~ \$325, at a sufficient level to defray the costs of the program. The beneficiary shall remit the total amount required in a lump sum each quarter.

(3) Any adjustment to the amount of the fee, pursuant to the authority of subsection (2) of this section, shall be made by rule adopted by the department in accordance with the provisions of chapter 34.05 RCW.

(4) Reporting and payments under subsections (1) and (2) of this section are due within ~~((forty five))~~ 45 days of the end of each quarter.

(5) ~~((This))~~ (a) Except as provided in (b) of this subsection, this section does not apply to any beneficiary or loan servicer that is a federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), and that certifies under penalty of perjury that fewer than ((fifty)) 50 notices of trustee's sale were recorded on its behalf in the preceding year.

(b) During the 2021 and 2022 calendar years, this section does not apply to any beneficiary or loan servicer that is a federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), and that certifies under penalty of perjury that fewer than 50 notices of trustee's sale were recorded on its behalf in 2019.

(6) This section does not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW.

(7) For purposes of this section, "residential real property" includes residential real property with up to four dwelling units, whether or not the property or any part thereof is owner-occupied.

(8) After the effective date of section 11 of this act, the requirements of this section apply only with respect to notices of trustee's sale for which remittance and reporting on a notice of default for that same residential real property was not made pursuant to section 11 of this act.

NEW SECTION, Sec. 11. A new section is added to chapter 61.24 RCW to read as follows:

(1) Except as provided in subsections (6) and (7) of this section, beginning January 1, 2022, and every quarter thereafter, every beneficiary issuing notices of default, or causing notices of default to be issued on its behalf, on residential real property under this chapter must:

(a) Report to the department, on a form approved by the department, the total number of residential real properties for which the beneficiary has issued a notice of default during the previous quarter, together with the street address, city, and zip code;

(b) Remit the amount required under subsection (2) of this section; and

(c) Report and update beneficiary contact information for the person and work group responsible for the beneficiary's compliance with the requirements of the foreclosure fairness act created in this chapter.

(2) For each residential real property for which a notice of default has been issued, the beneficiary issuing the notice of default, or causing the notice of default to be issued on the beneficiary's behalf, shall remit \$250 to the department to be deposited, as provided under RCW 61.24.172, into the foreclosure fairness account. The \$250 payment is required per property and not per notice of default. The beneficiary shall remit the total amount required in a lump sum each quarter.

(3) Reporting and payments under subsections (1) and (2) of this section are due within 45 days of the end of each quarter.

(4) For purposes of this section, "residential real property" includes residential real property with up to four dwelling units, whether or not the property or any part thereof is owner occupied.

(5) The department, including its officials and employees, may not be held civilly liable for damages arising from any release of information or the failure to release information related to the reporting required under this section, so long as the release was without gross negligence.

(6) Beginning on January 1, 2023, this section does not apply to any beneficiary or loan servicer that is a federally insured depository institution, as defined in 12 U.S.C. Sec. 461(b)(1)(A), and that certifies under penalty of perjury that it has issued, or has directed a trustee or authorized agent to issue, fewer than 250 notices of default in the preceding year.

(7) This section does not apply to association beneficiaries subject to chapter 64.32, 64.34, or 64.38 RCW.

NEW SECTION. Sec. 12. A new section is added to chapter 42.56 RCW to read as follows:

Information obtained by the department of commerce under section 11 of this act that reveals the name or other personal information of the borrower or the street address of the residential real property on which a notice of default was issued is exempt from disclosure under this chapter.

NEW SECTION. Sec. 13. RCW 61.24.173 (Required payment for each property subject to notice of trustee's sale—Residential real property—Exceptions—Deposit into foreclosure fairness account) and 2018 c 306 s 7 & 2016 c 196 s 2 are each repealed.

NEW SECTION. Sec. 14. The repeal in section 13 of this act does not affect any existing right acquired or liability or obligation incurred under the section repealed or under any rule or order adopted under that section, nor does it affect any proceeding instituted under that section.

NEW SECTION. Sec. 15. Sections 1 through 4, 6 through 8, and 10 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

NEW SECTION. Sec. 16. Sections 5, 9, 11, and 12 of this act take effect January 1, 2022.

NEW SECTION. Sec. 17. Sections 13 and 14 of this act take effect June 30, 2023.

Passed by the House April 12, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor May 3, 2021.
 Filed in Office of Secretary of State May 3, 2021.

CHAPTER 152

[House Bill 1119]

HIGHER EDUCATION INSTRUCTIONAL MATERIALS—NOTICE OF LOW-COST COURSES

AN ACT Relating to notifying students of courses with low-cost instructional materials and open educational resources at the four-year institutions of higher education; and amending RCW 28B.10.590.

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

Sec. 1. RCW 28B.10.590 and 2009 c 241 s 1 are each amended to read as follows:

(1) The boards of regents of the state universities, the boards of trustees of the regional universities and The Evergreen State College, and the boards of trustees of each community and technical college district, in collaboration with affiliated bookstores and student and faculty representatives, shall adopt rules requiring that:

(a) Affiliated bookstores:

(i) Provide students the option of purchasing materials that are unbundled when possible, disclose to faculty and staff the costs to students of purchasing materials, and disclose publicly how new editions vary from previous editions;

(ii) Actively promote and publicize book buy-back programs;

(iii) Disclose retail costs for course materials on a per course basis to faculty and staff and make this information publicly available; and

(iv) Disclose information to students on required course materials including but not limited to title, authors, edition, price, and International Standard Book Number (ISBN) at least four weeks before the start of the class for which the materials are required. The chief academic officer may waive the disclosure requirement provided in this subsection (1)(a)(iv), on a case-by-case basis, if students may reasonably expect that nearly all information regarding course materials is available four weeks before the start of the class for which the materials are required. The requirement provided in this subsection (1)(a)(iv) does not apply if the faculty member using the course materials is hired four weeks or less before the start of class; and

(b) Faculty and staff members consider the least costly practices in assigning course materials, such as adopting the least expensive edition available, adopting free, open textbooks when available, and working with college librarians to put together collections of free online web and library resources, when educational content is comparable as determined by the faculty.

(2) The state universities, the regional universities, and The Evergreen State College shall each designate in their online course descriptions used by students for registration purposes whether a course uses open educational resources or low-cost required instructional materials. If a course's required textbooks and course materials are not determined prior to registration due to an unassigned faculty member, the textbooks' and course materials' low-cost or open educational resource designation must be provided as soon as feasible after a faculty member is assigned.

(3) As used in this section:

(a) "Materials" means any supplies or texts required or recommended by faculty or staff for a given course.

(b) "Bundled" means a group of objects joined together by packaging or required to be purchased as an indivisible unit.

(c) "Low-cost" means the entire course's required instructional materials equal \$50 or less in 2021 dollars. The institutions of higher education shall adjust the dollar value of low-cost course materials at least once every five years to reflect the percentage change in the consumer price index over the preceding five years.

Passed by the House April 13, 2021.

Passed by the Senate April 9, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 153

[Substitute House Bill 1137]

TRANSPORTATION SYSTEM POLICY GOALS—PRIORITIES

AN ACT Relating to elevating road maintenance and preservation in transportation planning; and amending RCW 47.04.280.

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

Sec. 1. RCW 47.04.280 and 2016 c 35 s 3 are each amended to read as follows:

(1) It is the intent of the legislature to establish policy goals for the planning, operation, performance of, and investment in, the state's transportation system. ~~((The policy goals established under this section are deemed consistent with the benchmark categories adopted by the state's blue ribbon commission on transportation on November 30, 2000.))~~ Public investments in transportation should support achievement of these policy goals:

~~(a) ((Economic vitality: To promote and develop transportation systems that stimulate, support, and enhance the movement of people and goods to ensure a prosperous economy;~~

~~(b)))~~ Preservation: To maintain, preserve, and extend the life and utility of prior investments in transportation systems and services, including the state ferry system;

~~((=))~~ (b) Safety: To provide for and improve the safety and security of transportation customers and the transportation system;

(c) Stewardship: To continuously improve the quality, effectiveness, resilience, and efficiency of the transportation system;

(d) Mobility: To improve the predictable movement of goods and people throughout Washington state, including congestion relief and improved freight mobility;

(e) Economic vitality: To promote and develop transportation systems that stimulate, support, and enhance the movement of people and goods to ensure a prosperous economy; and

(f) Environment: To enhance Washington's quality of life through transportation investments that promote energy conservation, enhance healthy communities, and protect the environment((= and

(f) ~~Stewardship: To continuously improve the quality, effectiveness, and efficiency of the transportation system).~~

(2) The powers, duties, and functions of state transportation agencies must be performed in a manner consistent with the policy goals set forth in subsection (1) of this section with preservation and safety being priorities.

(3) These policy goals are intended to be the basis for establishing detailed and measurable objectives and related performance measures.

(4) It is the intent of the legislature that the office of financial management, in consultation with the transportation commission, establish objectives and performance measures for the department and other state agencies with transportation-related responsibilities to ensure transportation system performance at local, regional, and state government levels progresses toward the attainment of the policy goals set forth in subsection (1) of this section. The office of financial management shall submit objectives and performance measures to the legislature for its review and shall provide copies of the same to the commission during each regular session of the legislature during an even-numbered year thereafter.

(5) A local or regional agency engaging in transportation planning may voluntarily establish objectives and performance measures to demonstrate progress toward the attainment of the policy goals set forth in subsection (1) of this section or any other transportation policy goals established by the local or regional agency. A local or regional agency engaging in transportation planning is encouraged to provide local and regional objectives and performance measures to be included with the objectives and performance measures submitted to the legislature pursuant to subsection (4) of this section.

(6) This section does not create a private right of action.

Passed by the House April 24, 2021.

Passed by the Senate April 7, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 154

[Engrossed Second Substitute House Bill 1139]

SCHOOLS—LEAD IN DRINKING WATER

AN ACT Relating to taking action to address lead in school drinking water; adding a new section to chapter 28A.210 RCW; adding new sections to chapter 43.70 RCW; adding a new section to chapter 43.20 RCW; and creating new sections.

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

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

(2) The legislature finds that the department of health sampled and tested drinking water outlets in 551 elementary schools between 2017 and 2020. 82

percent of these schools had lead contamination of five or more parts per billion in one or more drinking water outlets and 49 percent of these schools had lead contamination of 15 or more parts per billion in one or more drinking water outlets.

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

(4) The legislature acknowledges the historically inequitable distribution of lead exposure for communities of color and of low socioeconomic status and plans to make a priority the protection of children from the dangers of lead exposure through school drinking water. The legislature, therefore, intends to require that drinking water outlets in elementary and secondary school buildings built, or with all plumbing replaced, before 2016 be tested for the presence and level of lead contamination by June 30, 2026, and every five years thereafter. The legislature also intends to require that schools notify the school community of lead test results and develop action plans for remediation if test results exceed the health-based standard of five parts per billion.

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

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

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

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

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

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

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

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

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

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

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

(b) The school action plan must:

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

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

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

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

(c) The school action plan may include sampling and testing of the drinking water entering the school when the results of testing for lead contamination at drinking water outlets within the school indicate that the infrastructure of the public water system is a documented significant contributor to the elevated lead levels.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

whether the school has contracted, or is planning to contract, for sampling and testing.

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

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

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

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

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

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

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

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

After July 1, 2030, the state board may, by rule, define "elevated lead level" at a concentration of five or fewer parts per billion if scientific evidence supports a lower concentration as having the potential for further reducing the health effects of lead contamination in drinking water.

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

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

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

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

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

Passed by the House April 14, 2021.

Passed by the Senate April 11, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 155

[Second Substitute House Bill 1161]

DRUG TAKE-BACK PROGRAMS—VARIOUS PROVISIONS

AN ACT Relating to modifying the requirements for drug take-back programs; amending RCW 69.48.010, 69.48.050, 69.48.070, 69.48.120, 43.131.423, and 43.131.424; and creating a new section.

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

Sec. 1. RCW 69.48.010 and 2018 c 196 s 1 are each amended to read as follows:

(1) Abuse, fatal overdoses, and poisonings from prescription and over-the-counter medicines used in the home have emerged as an epidemic in recent years. Poisoning is the leading cause of unintentional injury-related death in Washington, and more than ninety percent of poisoning deaths are due to drug overdoses. Poisoning by prescription and over-the-counter medicines is also one of the most common means of suicide and suicide attempts, with poisonings involved in more than twenty-eight thousand suicide attempts between 2004 and 2013.

(2) Home medicine cabinets are the most common source of prescription drugs that are diverted and misused. Studies find about seventy percent of those who abuse prescription medicines obtain the drugs from family members or friends, usually for free. People who are addicted to heroin often first abused prescription opiate medicines. Unused, unwanted, and expired medicines that accumulate in homes increase risks of drug abuse, overdoses, and preventable poisonings.

(3) A safe system for the collection and disposal of unused, unwanted, and expired medicines is a key element of a comprehensive strategy to prevent prescription drug abuse, but disposing of medicines by flushing them down the toilet or placing them in the garbage can contaminate groundwater and other bodies of water, contributing to long-term harm to the environment and animal life.

(4) The legislature therefore finds that it is in the interest of public health to establish a single, uniform, statewide system of regulation for safe and secure collection and disposal of medicines through ~~((a-uniform))~~ drug "take-back" programs operated and funded by drug manufacturers.

NEW SECTION. Sec. 2. (1) The legislature finds that in 2018, the legislature passed Engrossed Substitute House Bill No. 1047, which required drug manufacturers that sell drugs into Washington to operate a drug take-back program to collect and dispose of prescription and over-the-counter drugs. Further, the legislature finds that there is uncertainty about whether, under current law, more than one drug take-back program may operate.

(2) Therefore, the legislature intends to clearly authorize the department of health to approve and allow the operation of multiple drug take-back programs that meet all statutory requirements.

Sec. 3. RCW 69.48.050 and 2018 c 196 s 5 are each amended to read as follows:

(1) By July 1, 2019, a program operator must submit a proposal for the establishment and implementation of a drug take-back program to the department for approval. Proposals from new entities seeking to become a program operator after July 1, 2019, may be submitted as provided in subsection (7) of this section. The department shall approve a proposed program if the applicant submits a completed application, the proposed program meets the requirements of subsection (2) of this section, and the applicant pays the appropriate proposal review fee established by the department under RCW 69.48.120. The department may approve drug take-back programs proposed by one or more program operators consistent with the provisions of this section.

(2) To be approved by the department, a proposed drug take-back program, independent of any other operating program, must:

(a) Identify and provide contact information for the program operator and each participating covered manufacturer;

(b) Identify and provide contact information for the authorized collectors for the proposed program, as well as the reasons for excluding any potential authorized collectors from participation in the program;

(c) Provide for a collection system that complies with RCW 69.48.060;

(d) Ensure that physical collection sites are the primary method of collection across the state and that methods of supplementing physical collection site service are the secondary methods for collection as required by RCW 69.48.060(3) (b) through (d). A drug take-back program's use of supplemental mail-back distribution locations or periodic collection events in any areas underserved by physical collection sites may provide collection services to no more than 15 percent of the state's residents;

(e) Provide for a handling and disposal system that complies with RCW 69.48.080;

~~((f))~~ (f) Identify any transporters and waste disposal facilities that the program will use;

~~((g))~~ (g) Adopt policies and procedures to be followed by persons handling covered drugs collected under the program to ensure safety, security, and compliance with regulations adopted by the United States drug enforcement administration, as well as any applicable laws;

~~((g))~~ (h) Ensure the security of patient information on drug packaging during collection, transportation, recycling, and disposal;

~~((h))~~ (i) Promote the program by providing consumers, pharmacies, and other entities with educational and informational materials as required by RCW 69.48.070;

~~((i))~~ (j) Demonstrate adequate funding for all administrative and operational costs of the drug take-back program, with costs apportioned among participating covered manufacturers;

~~((j))~~ (k) Set long-term and short-term goals with respect to collection amounts and public awareness; and

~~((k))~~ (l) Consider: (i) The use of existing providers of pharmaceutical waste transportation and disposal services; (ii) separation of covered drugs from packaging to reduce transportation and disposal costs; and (iii) recycling of drug packaging.

(3)(a) No later than one hundred twenty days after receipt of a drug take-back program proposal, the department shall either approve or reject the proposal in writing to the applicant. The department may extend the deadline for approval or rejection of a proposal for good cause. If the department rejects the proposal, it shall provide the reason for rejection.

(b) No later than ninety days after receipt of a notice of rejection under (a) of this subsection, the applicant shall submit a revised proposal to the department. The department shall either approve or reject the revised proposal in writing to the applicant within ninety days after receipt of the revised proposal, including the reason for rejection, if applicable.

(c) If the department rejects a revised proposal, the department may:

(i) Require the program operator to submit a further revised proposal;

(ii) Develop and impose changes to some or all of the revised proposal to address deficiencies;

(iii) Require the covered manufacturer or covered manufacturers that proposed the rejected revised proposal to participate in a previously approved drug take-back program; or

(iv) Find the covered manufacturer out of compliance with the requirements of this chapter and take enforcement action as provided in RCW 69.48.110.

(4) The program operator must ~~((initiate operation of))~~ fully implement an approved drug take-back program no later than one hundred eighty days after approval of the proposal by the department.

(5)(a) Proposed changes to an approved drug take-back program that substantially alter program operations must have prior written approval of the department. A program operator must submit to the department such a proposed change in writing at least fifteen days before the change is scheduled to occur. Changes requiring prior approval of the department include changes to participating covered manufacturers, collection methods, achievement of the service convenience goal described in RCW 69.48.060, policies and procedures for handling covered drugs, education and promotion methods, and selection of disposal facilities.

(b) For changes to a drug take-back program that do not substantially alter program operations, a program operator must notify the department at least seven days before implementing the change. Changes that do not substantially alter program operations include changes to collection site locations, methods

for scheduling and locating periodic collection events, and methods for distributing prepaid, preaddressed mailers.

(c) A program operator must notify the department of any changes to the official point of contact for the program no later than fifteen days after the change. A program operator must notify the department of any changes in ownership or contact information for participating covered manufacturers no later than ninety days after such change.

(6) ~~((No later than four years after a drug take-back program initiates operations))~~ By July 1, 2024, and every four years thereafter, ((the)) all program operators must submit an updated proposal to the department describing any substantive changes to program elements described in subsection (2) of this section. The department shall approve or reject the updated proposal using the process described in subsection (3) of this section.

(7)(a) On July 1, 2021, the department will begin the review of new proposals received by that date from entities seeking to become a program operator.

(b) Beginning July 1, 2024, and every four years thereafter, the department will review new proposals from entities seeking to become a program operator.

(c) The department shall approve a proposal if it meets the requirements in subsection (2) of this section and the applicant pays the appropriate fee established by the department under RCW 69.48.120. The department must approve or reject proposals received using the process provided in subsection (3) of this section.

(8)(a) If there is a single approved drug take-back program at any time and that program operator intends to leave the program for any reason, participating manufacturers must find a new entity to take over operations of the existing program without a break in program services. The new entity may not make changes to the operations of the approved program, which must be consistent with the proposal as it was approved by the department under this section, or each covered manufacturer or group of covered manufacturers must identify a new program operator to develop a new program proposal. The department must accept new proposals from potential program operators for a minimum of four months from the date the department is notified of the program operator intending to cease operations, or until a proposal is approved by the department. The department may approve a proposal if it meets the requirements in subsection (2) of this section and the applicant pays the appropriate fee established by the department under RCW 69.48.120. The department must approve or reject proposals received using the process described in subsection (3) of this section.

(b) If there is a single approved drug take-back program, and that program operator leaves the program and participating manufacturers do not identify a program operator to take over the approved program as provided in (a) of this subsection, all covered manufacturers must participate in a new approved drug take-back program as soon as one is approved.

(9) If there is more than one approved drug take-back program, and a program operator for a drug take-back program leaves the program for any reason and the covered manufacturers participating in that program fail to identify a new entity to take over operations of the existing program without a break in program services as described in subsection (8)(a) of this section, those

manufacturers must immediately join an existing approved drug take-back program.

(10) A covered manufacturer may change the approved drug take-back program it participates in but the covered manufacturer must maintain continuous participation in an established drug take-back program and may not leave an approved program until it transfers participation to an approved drug take-back program that has begun drug collection.

(11) The department shall make all proposals submitted under this section available to the public and shall provide an opportunity for written public comment on each proposal.

(12)(a) All program operators must collaborate to present a consistent statewide drug take-back system for residents to ensure that all state residents can easily identify, understand, and access services provided by any approved drug take-back program. The department may identify or clarify in rule additional requirements for coordination or performance amongst program operators, if necessary, to ensure consistent operation of the drug take-back program. Requirements may include, but are not limited to: Consistent drop box appearance and signage; consistent messaging in education and outreach; and consistent metrics included in operator annual reports as required in RCW 69.48.100 to ensure the department can accurately analyze the data.

(b) Failure to comply with these requirements may result in enforcement action against a program operator as authorized under RCW 69.48.110.

Sec. 4. RCW 69.48.070 and 2018 c 196 s 7 are each amended to read as follows:

(1) A drug take-back program must develop and provide a system of promotion, education, and public outreach about the safe storage and secure collection of covered drugs. This system may include signage, written materials to be provided at the time of purchase or delivery of covered drugs, and advertising or other promotional materials. At a minimum, each program must:

(a) Promote the safe storage of legend drugs and nonlegend drugs by residents before secure disposal through a drug take-back program;

(b) Discourage residents from disposing of covered drugs in solid waste collection, sewer, or septic systems;

(c) Promote the use of the drug take-back program so that where and how to return covered drugs is widely understood by residents, pharmacists, retail pharmacies, health care facilities and providers, veterinarians, and veterinary hospitals;

(d) Establish a toll-free telephone number and website publicizing collection options and collection sites and discouraging improper disposal practices for covered drugs, such as flushing them or placing them in the garbage;

(e) Prepare educational and outreach materials that: Promote safe storage of covered drugs; discourage the disposal of covered drugs in solid waste collection, sewer, or septic systems; and describe how to return covered drugs to the drug take-back program. The materials must use plain language and explanatory images to make collection services and discouraged disposal practices readily understandable to all residents, including residents with limited English proficiency;

(f) Disseminate the educational and outreach materials described in (e) of this subsection to pharmacies, health care facilities, and other interested parties for dissemination to covered entities;

(g) Work with authorized collectors to develop a readily recognizable, consistent design of collection receptacles, as well as clear, standardized instructions for covered entities on the use of collection receptacles. The department may provide guidance to program operators on the development of the instructions and design; and

(h) Annually report on its promotion, outreach, and public education activities in its annual report required by RCW 69.48.100.

(2) If more than one drug take-back program is approved by the department, the programs must coordinate their promotional activities to ensure that all state residents can easily identify, understand, and access the collection services provided by any drug take-back program. Coordination efforts must include providing residents with a single toll-free telephone number and single website to access information about collection services for every approved program, including presenting all available collection sites, mail-back distribution locations, and take-back events to ensure residents are able to access the most convenient method of collection, regardless of the program operator, and must manage requests for prepaid, preaddressed mailing envelopes from covered entities and from retail pharmacies as provided in RCW 69.48.060(3)(e).

(3) Pharmacies and other entities that sell medication in the state are encouraged to promote secure disposal of covered drugs through the use of one or more approved drug take-back programs. Upon request, a pharmacy must provide materials explaining the use of approved drug take-back programs to its customers. The program operator must provide pharmacies with these materials upon request and at no cost to the pharmacy.

(4) The department, the health care authority, the department of social and health services, the department of ecology, and any other state agency that is responsible for health, solid waste management, and wastewater treatment shall, through their standard educational methods, promote safe storage of prescription and nonprescription drugs by covered entities, secure disposal of covered drugs through a drug take-back program, and the toll-free telephone number and website for approved drug take-back programs. Local health jurisdictions and local government agencies are encouraged to promote approved drug take-back programs.

(5) The department:

(a) Shall conduct a survey of covered entities and a survey of pharmacists, health care providers, and veterinarians who interact with covered entities on the use of medicines after the first full year of operation of the drug take-back program, and again every two years thereafter. Survey questions must: Measure consumer awareness of the drug take-back program; assess the extent to which collection sites and other collection methods are convenient and easy to use; assess knowledge and attitudes about risks of abuse, poisonings, and overdoses from drugs used in the home; and assess covered entities' practices with respect to unused, unwanted, or expired drugs, both currently and prior to implementation of the drug take-back program; and

(b) May, upon review of results of public awareness surveys, direct a program operator for an approved drug take-back program to modify the

program's promotion and outreach activities to better achieve widespread awareness among Washington state residents and health care professionals about where and how to return covered drugs to the drug take-back program.

Sec. 5. RCW 69.48.120 and 2018 c 196 s 12 are each amended to read as follows:

(1)(a) (~~By July 1, 2019, the~~) The department shall: Determine its costs for the administration, oversight, and enforcement of the requirements of this chapter, including, but not limited to, a fee for proposal review, and the survey required under RCW 69.48.200; pursuant to RCW 43.70.250, set fees at a level sufficient to recover the costs associated with administration, oversight, and enforcement; and adopt rules establishing requirements for program operator proposals.

(b) The department shall not impose any fees in excess of its actual administrative, oversight, and enforcement costs. The fees collected from each program operator in calendar year 2020 and any subsequent year may not exceed ten percent of the program's annual expenditures as reported to the department in the annual report required by RCW 69.48.100 and determined by the department.

(c) Adjustments to the department's fees may be made annually and shall not exceed actual administration, oversight, and enforcement costs. Adjustments for inflation may not exceed the percentage change in the consumer price index for all urban consumers in the United States as calculated by the United States department of labor as averaged by city for the twelve-month period ending with June of the previous year.

(d) The annual fee set by the department shall be evenly split amongst each approved program operator.

(e) The department shall collect annual operating fees from each program operator by October 1, 2019, and annually thereafter.

(f) Between the effective date of this section and January 1, 2024, the department shall collect a nonrefundable one-time fee of \$157,000 for review of proposals from each potential program operator applicant as provided in RCW 69.48.050.

(2) All fees collected under this section must be deposited in the secure drug take-back program account established in RCW 69.48.130.

Sec. 6. RCW 43.131.423 and 2018 c 196 s 26 are each amended to read as follows:

The authorization for drug take-back programs created in chapter 196, Laws of 2018 and chapter . . . , Laws of 2021 (sections 1 through 5 of this act) shall be terminated on January 1, 2029, as provided in RCW 43.131.424.

Sec. 7. RCW 43.131.424 and 2018 c 196 s 27 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective January 1, 2030:

(1) RCW 69.48.010 and 2021 c . . . s 1 (section 1 of this act) & 2018 c 196 s 1;

(2) RCW 69.48.020 and 2018 c 196 s 2;

((2)) (3) RCW 69.48.030 and 2018 c 196 s 3;

((3)) (4) RCW 69.48.040 and 2018 c 196 s 4;

- ~~((4))~~ (5) RCW 69.48.050 and 2021 c . . . s 3 (section 3 of this act) & 2018 c 196 s 5;
- ~~((5))~~ (6) RCW 69.48.060 and 2018 c 196 s 6;
- ~~((6))~~ (7) RCW 69.48.070 and 2021 c . . . s 4 (section 4 of this act) & 2018 c 196 s 7;
- ~~((7))~~ (8) RCW 69.48.080 and 2018 c 196 s 8;
- ~~((8))~~ (9) RCW 69.48.090 and 2018 c 196 s 9;
- ~~((9))~~ (10) RCW 69.48.100 and 2018 c 196 s 10;
- ~~((10))~~ (11) RCW 69.48.110 and 2018 c 196 s 11;
- ~~((11))~~ (12) RCW 69.48.120 and 2021 c . . . s 5 (section 5 of this act) & 2018 c 196 s 12;
- ~~((12))~~ (13) RCW 69.48.130 and 2018 c 196 s 13;
- ~~((13))~~ (14) RCW 69.48.140 and 2018 c 196 s 14;
- ~~((14))~~ (15) RCW 69.48.150 and 2018 c 196 s 15;
- ~~((15))~~ (16) RCW 69.48.160 and 2018 c 196 s 16;
- ~~((16))~~ (17) RCW 69.48.170 and 2018 c 196 s 17;
- ~~((17))~~ (18) RCW 69.48.180 and 2018 c 196 s 18;
- ~~((18))~~ (19) RCW 69.48.190 and 2018 c 196 s 19; and
- ~~((19))~~ (20) RCW 69.48.200 and 2018 c 196 s 20.

Passed by the House March 8, 2021.

Passed by the Senate April 11, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 156

[Engrossed Substitute House Bill 1184]

ON-SITE NONPOTABLE WATER SYSTEMS—RISK-BASED WATER QUALITY STANDARDS

AN ACT Relating to risk-based water quality standards for on-site nonpotable water systems; and adding a new section to chapter 90.46 RCW.

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

NEW SECTION, Sec. 1. A new section is added to chapter 90.46 RCW to read as follows:

(1)(a) By July 1, 2022, the department of health, in consultation with the Washington state building code council and the Washington state association of plumbers and pipefitters who participate in the development of the Uniform Plumbing Code under chapter 19.27 RCW, shall adopt rules for:

(i) Risk-based water quality standards for the on-site treatment and reuse of nonpotable alternative water sources for nonpotable end uses in multifamily residential, commercial, and mixed-use buildings, and district-scale projects, including a mix of multifamily residential, commercial, and mixed-use buildings; and

(ii) Construction standards to adopt the risk-based framework water quality standards.

(b) The department of health must ensure that rules adopted under this subsection take effect by December 31, 2022.

(2) At a minimum, the rules required under subsection (1) of this section must address the following:

(a) Risk-based log reduction targets for the removal of pathogens, such as enteric viruses, parasitic protozoa, and enteric bacteria for alternative water sources, including wastewater from all domestic fixtures, gray water, rainwater, and stormwater for nonpotable end uses such as toilet and urinal supply water, clothes washing, irrigation, and dust suppression;

(b) Treatment and performance requirements;

(c) Water quality monitoring requirements;

(d) Reporting requirements for the treatment, performance, and water quality monitoring results;

(e) Notification and public information requirements;

(f) Cross-connection controls;

(g) Permitting;

(h) Any conflicts the rules adopted in this section have with the department of ecology's municipal stormwater general permit and guidance manuals on stormwater for eastern and western Washington. Any calculations of the amount of water that a property owner or permit holder must make to address runoff from impervious surfaces must reduce the amount of rainwater considered to be stormwater when it is captured to be used for alternative nonpotable end uses in buildings and projects; and

(i) The need for a water right impairment review through the department of ecology.

(3)(a) An on-site treated nonpotable water system in operation before January 1, 2022, must comply with the rules established pursuant to subsection (1) of this section by January 1, 2024.

(b) If a permitting local jurisdiction finds that the permittee is unable to come into compliance with the rules adopted under subsection (1) of this section because the engineering, repair, or replacement of the system is cost prohibitive, the local jurisdiction may grant the permittee a waiver of compliance with the rules.

(4) The department of health may consult or contract with other public or private entities including, but not limited to, the state building code council and the department of ecology for advice on state building code language, water rights, water quality, and other technical matters relating to adoption of the risk-based water quality standards pursuant to subsection (1) of this section.

(5) For the purposes of this section, "local jurisdiction" includes a county, city, or town.

Passed by the House April 12, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 157

[Engrossed Substitute House Bill 1196]

AUDIO-ONLY TELEMEDICINE

AN ACT Relating to audio-only telemedicine; amending RCW 41.05.700, 48.43.735, 70.41.020, 71.24.335, 74.09.325, 18.130.180, and 28B.20.830; adding a new section to chapter 74.09 RCW; creating new sections; and providing an expiration date.

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

Sec. 1. RCW 41.05.700 and 2020 c 92 s 2 are each amended to read as follows:

(1)(a) A health plan offered to employees, school employees, and their covered dependents under this chapter issued or renewed on or after January 1, 2017, shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:

(i) The plan provides coverage of the health care service when provided in person by the provider;

(ii) The health care service is medically necessary;

(iii) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015; ~~(and)~~

(iv) The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health care service meets the standards required by state and federal laws governing the privacy and security of protected health information; and

(v) Beginning January 1, 2023, for audio-only telemedicine, the covered person has an established relationship with the provider.

(b)(i) Except as provided in (b)(ii) of this subsection, a health plan offered to employees, school employees, and their covered dependents under this chapter issued or renewed on or after January 1, 2021, shall reimburse a provider for a health care service provided to a covered person through telemedicine ~~((at))~~ the same ~~((rate as))~~ amount of compensation the carrier would pay the provider if the health care service was provided in person by the provider.

(ii) Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate ~~((a reimbursement rate))~~ an amount of compensation for telemedicine services that differs from the ~~((reimbursement rate))~~ amount of compensation for in-person services.

(iii) For purposes of this subsection (1)(b), the number of providers in a provider group refers to all providers within the group, regardless of a provider's location.

(2) For purposes of this section, reimbursement of store and forward technology is available only for those covered services specified in the negotiated agreement between the health plan and health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:

(a) Hospital;

(b) Rural health clinic;

(c) Federally qualified health center;

(d) Physician's or other health care provider's office;
(e) ~~((Community mental health center))~~ Licensed or certified behavioral health agency;

(f) Skilled nursing facility;

(g) Home or any location determined by the individual receiving the service; or

(h) Renal dialysis center, except an independent renal dialysis center.

(4) Except for subsection (3)(g) of this section, any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement for a facility fee must be subject to a negotiated agreement between the originating site and the health plan. A distant site, a hospital that is an originating site for audio-only telemedicine, or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) The plan may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) The plan may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

(7) This section does not require the plan to reimburse:

(a) An originating site for professional fees;

(b) A provider for a health care service that is not a covered benefit under the plan; or

(c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

(8)(a) If a provider intends to bill a patient or the patient's health plan for an audio-only telemedicine service, the provider must obtain patient consent for the billing in advance of the service being delivered.

(b) If the health care authority has cause to believe that a provider has engaged in a pattern of unresolved violations of this subsection (8), the health care authority may submit information to the appropriate disciplining authority, as defined in RCW 18.130.020, for action. Prior to submitting information to the appropriate disciplining authority, the health care authority may provide the provider with an opportunity to cure the alleged violations or explain why the actions in question did not violate this subsection (8).

(c) If the provider has engaged in a pattern of unresolved violations of this subsection (8), the appropriate disciplining authority may levy a fine or cost recovery upon the provider in an amount not to exceed the applicable statutory amount per violation and take other action as permitted under the authority of the disciplining authority. Upon completion of its review of any potential violation submitted by the health care authority or initiated directly by an enrollee, the disciplining authority shall notify the health care authority of the results of the review, including whether the violation was substantiated and any enforcement action taken as a result of a finding of a substantiated violation.

(9) For purposes of this section:

(a)(i) "Audio-only telemedicine" means the delivery of health care services through the use of audio-only technology, permitting real-time communication

between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.

(i) For purposes of this section only, "audio-only telemedicine" does not include:

(A) The use of facsimile or email; or

(B) The delivery of health care services that are customarily delivered by audio-only technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results.

(b) "Disciplining authority" has the same meaning as in RCW 18.130.020;

(c) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

~~((b))~~ (d) "Established relationship" means the covered person has had at least one in-person appointment within the past year with the provider providing audio-only telemedicine or with a provider employed at the same clinic as the provider providing audio-only telemedicine or the covered person was referred to the provider providing audio-only telemedicine by another provider who has had at least one in-person appointment with the covered person within the past year and has provided relevant medical information to the provider providing audio-only telemedicine.

(e) "Health care service" has the same meaning as in RCW 48.43.005;

~~((e))~~ (f) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

~~((d))~~ (g) "Originating site" means the physical location of a patient receiving health care services through telemedicine;

~~((e))~~ (h) "Provider" has the same meaning as in RCW 48.43.005;

~~((f))~~ (i) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

~~((g))~~ (j) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" ~~((does not include the use of))~~ includes audio-only ~~((telephone))~~ telemedicine, but does not include facsimile~~((s))~~ or email.

Sec. 2. RCW 48.43.735 and 2020 c 92 s 1 are each amended to read as follows:

(1)(a) For health plans issued or renewed on or after January 1, 2017, a health carrier shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:

(i) The plan provides coverage of the health care service when provided in person by the provider;

(ii) The health care service is medically necessary;

(iii) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015; ~~((and))~~

(iv) The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health care service meets the standards required by state and federal laws governing the privacy and security of protected health information; and

(v) Beginning January 1, 2023, for audio-only telemedicine, the covered person has an established relationship with the provider.

(b)(i) Except as provided in (b)(ii) of this subsection, for health plans issued or renewed on or after January 1, 2021, a health carrier shall reimburse a provider for a health care service provided to a covered person through telemedicine ~~((at))~~ the same ~~((rate as))~~ amount of compensation the carrier would pay the provider if the health care service was provided in person by the provider.

(ii) Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate ~~((a reimbursement rate))~~ an amount of compensation for telemedicine services that differs from the ~~((reimbursement rate))~~ amount of compensation for in-person services.

(iii) For purposes of this subsection (1)(b), the number of providers in a provider group refers to all providers within the group, regardless of a provider's location.

(2) For purposes of this section, reimbursement of store and forward technology is available only for those covered services specified in the negotiated agreement between the health carrier and the health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:

- (a) Hospital;
- (b) Rural health clinic;
- (c) Federally qualified health center;
- (d) Physician's or other health care provider's office;
- (e) ~~((Community mental health center))~~ Licensed or certified behavioral health agency;
- (f) Skilled nursing facility;
- (g) Home or any location determined by the individual receiving the service; or
- (h) Renal dialysis center, except an independent renal dialysis center.

(4) Except for subsection (3)(g) of this section, any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement for a facility fee must be subject to a negotiated agreement between the originating site and the health carrier. A distant site, a hospital that is an originating site for audio-only telemedicine, or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) A health carrier may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) A health carrier may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all

terms and conditions of the plan in which the covered person is enrolled including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

(7) This section does not require a health carrier to reimburse:

(a) An originating site for professional fees;

(b) A provider for a health care service that is not a covered benefit under the plan; or

(c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

(8)(a) If a provider intends to bill a patient or the patient's health plan for an audio-only telemedicine service, the provider must obtain patient consent for the billing in advance of the service being delivered.

(b) If the commissioner has cause to believe that a provider has engaged in a pattern of unresolved violations of this subsection (8), the commissioner may submit information to the appropriate disciplining authority, as defined in RCW 18.130.020, for action. Prior to submitting information to the appropriate disciplining authority, the commissioner may provide the provider with an opportunity to cure the alleged violations or explain why the actions in question did not violate this subsection (8).

(c) If the provider has engaged in a pattern of unresolved violations of this subsection (8), the appropriate disciplining authority may levy a fine or cost recovery upon the provider in an amount not to exceed the applicable statutory amount per violation and take other action as permitted under the authority of the disciplining authority. Upon completion of its review of any potential violation submitted by the commissioner or initiated directly by an enrollee, the disciplining authority shall notify the commissioner of the results of the review, including whether the violation was substantiated and any enforcement action taken as a result of a finding of a substantiated violation.

(9) For purposes of this section:

(a)(i) "Audio-only telemedicine" means the delivery of health care services through the use of audio-only technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.

(ii) For purposes of this section only, "audio-only telemedicine" does not include:

(A) The use of facsimile or email; or

(B) The delivery of health care services that are customarily delivered by audio-only technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results.

(b) "Disciplining authority" has the same meaning as in RCW 18.130.020;

(c) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

((b)) (d) "Established relationship" means the covered person has had at least one in-person appointment within the past year with the provider providing audio-only telemedicine or with a provider employed at the same clinic as the provider providing audio-only telemedicine or the covered person was referred to the provider providing audio-only telemedicine by another provider who has

had at least one in-person appointment with the covered person within the past year and has provided relevant medical information to the provider providing audio-only telemedicine.

~~((e))~~ (e) "Health care service" has the same meaning as in RCW 48.43.005;

~~((f))~~ (f) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

~~((g))~~ (g) "Originating site" means the physical location of a patient receiving health care services through telemedicine;

~~((h))~~ (h) "Provider" has the same meaning as in RCW 48.43.005;

~~((i))~~ (i) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

~~((j))~~ (j) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" ~~((does not include the use of))~~ includes audio-only ~~((telephone))~~ telemedicine, but does not include facsimile~~((s))~~ or email.

(9) The commissioner may adopt any rules necessary to implement this section.

Sec. 3. RCW 70.41.020 and 2016 c 226 s 1 are each amended to read as follows:

Unless the context clearly indicates otherwise, the following terms, whenever used in this chapter, shall be deemed to have the following meanings:

(1) "Aftercare" means the assistance provided by a lay caregiver to a patient under this chapter after the patient's discharge from a hospital. The assistance may include, but is not limited to, assistance with activities of daily living, wound care, medication assistance, and the operation of medical equipment. "Aftercare" includes assistance only for conditions that were present at the time of the patient's discharge from the hospital. "Aftercare" does not include:

(a) Assistance related to conditions for which the patient did not receive medical care, treatment, or observation in the hospital; or

(b) Tasks the performance of which requires licensure as a health care provider.

(2)(a) "Audio-only telemedicine" means the delivery of health care services through the use of audio-only technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.

(b) "Audio-only telemedicine" does not include:

(i) The use of facsimile or email; or

(ii) The delivery of health care services that are customarily delivered by audio-only technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results.

(3) "Department" means the Washington state department of health.

~~((4))~~ (4) "Discharge" means a patient's release from a hospital following the patient's admission to the hospital.

~~((4))~~ (5) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine.

~~((5))~~ (6) "Emergency care to victims of sexual assault" means medical examinations, procedures, and services provided by a hospital emergency room to a victim of sexual assault following an alleged sexual assault.

~~((6))~~ (7) "Emergency contraception" means any health care treatment approved by the food and drug administration that prevents pregnancy, including but not limited to administering two increased doses of certain oral contraceptive pills within seventy-two hours of sexual contact.

~~((7))~~ (8) "Hospital" means any institution, place, building, or agency which provides accommodations, facilities and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care, of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis. "Hospital" as used in this chapter does not include hotels, or similar places furnishing only food and lodging, or simply domiciliary care; nor does it include clinics, or physician's offices where patients are not regularly kept as bed patients for twenty-four hours or more; nor does it include nursing homes, as defined and which come within the scope of chapter 18.51 RCW; nor does it include birthing centers, which come within the scope of chapter 18.46 RCW; nor does it include psychiatric hospitals, which come within the scope of chapter 71.12 RCW; nor any other hospital, or institution specifically intended for use in the diagnosis and care of those suffering from mental illness, intellectual disability, convulsive disorders, or other abnormal mental condition. Furthermore, nothing in this chapter or the rules adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any hospital conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denominations.

~~((8))~~ (9) "Lay caregiver" means any individual designated as such by a patient under this chapter who provides aftercare assistance to a patient in the patient's residence. "Lay caregiver" does not include a long-term care worker as defined in RCW 74.39A.009.

~~((9))~~ (10) "Originating site" means the physical location of a patient receiving health care services through telemedicine.

~~((10))~~ (11) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

~~((11))~~ (12) "Secretary" means the secretary of health.

~~((12))~~ (13) "Sexual assault" has the same meaning as in RCW 70.125.030.

~~((13))~~ (14) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. "Telemedicine" ~~((does not include the use of))~~ includes audio-only ~~((telephone))~~ telemedicine, but does not include facsimile~~(s)~~ or email.

~~((14))~~ (15) "Victim of sexual assault" means a person who alleges or is alleged to have been sexually assaulted and who presents as a patient.

Sec. 4. RCW 71.24.335 and 2019 c 325 s 1019 are each amended to read as follows:

(1) Upon initiation or renewal of a contract with the authority, behavioral health administrative services organizations and managed care organizations shall reimburse a provider for a behavioral health service provided to a covered person who is under eighteen years old through telemedicine or store and forward technology if:

(a) The behavioral health administrative services organization or managed care organization in which the covered person is enrolled provides coverage of the behavioral health service when provided in person by the provider; ~~((and))~~

(b) The behavioral health service is medically necessary; and

(c) Beginning January 1, 2023, for audio-only telemedicine, the covered person has an established relationship with the provider.

(2)(a) If the service is provided through store and forward technology there must be an associated visit between the covered person and the referring provider. Nothing in this section prohibits the use of telemedicine for the associated office visit.

(b) For purposes of this section, reimbursement of store and forward technology is available only for those services specified in the negotiated agreement between the behavioral health administrative services organization, or managed care organization, and the provider.

(3) An originating site for a telemedicine behavioral health service subject to subsection (1) of this section means an originating site as defined in rule by the department or the health care authority.

(4) Any originating site, other than a home, under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement must be subject to a negotiated agreement between the originating site and the behavioral health administrative services organization, or managed care organization, as applicable. A distant site, a hospital that is an originating site for audio-only telemedicine, or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) Behavioral health administrative services organizations and managed care organizations may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) Behavioral health administrative services organizations and managed care organizations may subject coverage of a telemedicine or store and forward technology behavioral health service under subsection (1) of this section to all terms and conditions of the behavioral health administrative services organization or managed care organization in which the covered person is enrolled, including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable behavioral health care service provided in person.

(7) This section does not require a behavioral health administrative services organization or a managed care organization to reimburse:

(a) An originating site for professional fees;

(b) A provider for a behavioral health service that is not a covered benefit;

or

(c) An originating site or provider when the site or provider is not a contracted provider.

(8)(a) If a provider intends to bill a patient, a behavioral health administrative services organization, or a managed care organization for an audio-only telemedicine service, the provider must obtain patient consent for the billing in advance of the service being delivered.

(b) If the health care authority has cause to believe that a provider has engaged in a pattern of unresolved violations of this subsection (8), the health care authority may submit information to the appropriate disciplining authority, as defined in RCW 18.130.020, for action. Prior to submitting information to the appropriate disciplining authority, the health care authority may provide the provider with an opportunity to cure the alleged violations or explain why the actions in question did not violate this subsection (8).

(c) If the provider has engaged in a pattern of unresolved violations of this subsection (8), the appropriate disciplining authority may levy a fine or cost recovery upon the provider in an amount not to exceed the applicable statutory amount per violation and take other action as permitted under the authority of the disciplining authority. Upon completion of its review of any potential violation submitted by the health care authority or initiated directly by an enrollee, the disciplining authority shall notify the health care authority of the results of the review, including whether the violation was substantiated and any enforcement action taken as a result of a finding of a substantiated violation.

(9) For purposes of this section:

(a)(i) "Audio-only telemedicine" means the delivery of health care services through the use of audio-only technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.

(ii) For purposes of this section only, "audio-only telemedicine" does not include:

(A) The use of facsimile or email; or

(B) The delivery of health care services that are customarily delivered by audio-only technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results.

(b) "Disciplining authority" has the same meaning as in RCW18.130.020;

(c) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

((b)) (d) "Established relationship" means the covered person has had at least one in-person appointment within the past year with the provider providing audio-only telemedicine or with a provider employed at the same clinic as the provider providing audio-only telemedicine or the covered person was referred to the provider providing audio-only telemedicine by another provider who has had at least one in-person appointment with the covered person within the past year and has provided relevant medical information to the provider providing audio-only telemedicine.

(e) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

((e)) (f) "Originating site" means the physical location of a patient receiving behavioral health services through telemedicine;

~~((d))~~ (g) "Provider" has the same meaning as in RCW 48.43.005;

~~((e))~~ (h) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical or behavioral health information from an originating site to the provider at a distant site which results in medical or behavioral health diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

~~((f))~~ (i) "Telemedicine" means the delivery of health care or behavioral health services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" ~~((does not include the use of))~~ includes audio-only ~~((telephone))~~ telemedicine, but does not include facsimile~~((;))~~ or email.

(9) The authority must adopt rules as necessary to implement the provisions of this section.

Sec. 5. RCW 74.09.325 and 2020 c 92 s 3 are each amended to read as follows:

(1)(a) Upon initiation or renewal of a contract with the Washington state health care authority to administer a medicaid managed care plan, a managed health care system shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:

(i) The medicaid managed care plan in which the covered person is enrolled provides coverage of the health care service when provided in person by the provider;

(ii) The health care service is medically necessary;

(iii) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2015; ~~((and))~~

(iv) The health care service is determined to be safely and effectively provided through telemedicine or store and forward technology according to generally accepted health care practices and standards, and the technology used to provide the health care service meets the standards required by state and federal laws governing the privacy and security of protected health information; and

(v) Beginning January 1, 2023, for audio-only telemedicine, the covered person has an established relationship with the provider.

(b)(i) Except as provided in (b)(ii) of this subsection, upon initiation or renewal of a contract with the Washington state health care authority to administer a medicaid managed care plan, a managed health care system shall reimburse a provider for a health care service provided to a covered person through telemedicine ~~((at))~~ the same ~~((rate as))~~ amount of compensation the managed health care system would pay the provider if the health care service was provided in person by the provider.

(ii) Hospitals, hospital systems, telemedicine companies, and provider groups consisting of eleven or more providers may elect to negotiate ~~((a reimbursement rate))~~ an amount of compensation for telemedicine services that differs from the ~~((reimbursement rate))~~ amount of compensation for in-person services.

(iii) For purposes of this subsection (1)(b), the number of providers in a provider group refers to all providers within the group, regardless of a provider's location.

(iv) A rural health clinic shall be reimbursed for audio-only telemedicine at the rural health clinic encounter rate.

(2) For purposes of this section, reimbursement of store and forward technology is available only for those services specified in the negotiated agreement between the managed health care system and health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:

(a) Hospital;

(b) Rural health clinic;

(c) Federally qualified health center;

(d) Physician's or other health care provider's office;

(e) ~~((Community mental health center))~~ Licensed or certified behavioral health agency;

(f) Skilled nursing facility;

(g) Home or any location determined by the individual receiving the service; or

(h) Renal dialysis center, except an independent renal dialysis center.

(4) Except for subsection (3)(g) of this section, any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement for a facility fee must be subject to a negotiated agreement between the originating site and the managed health care system. A distant site, a hospital that is an originating site for audio-only telemedicine, or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) A managed health care system may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) A managed health care system may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan in which the covered person is enrolled including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

(7) This section does not require a managed health care system to reimburse:

(a) An originating site for professional fees;

(b) A provider for a health care service that is not a covered benefit under the plan; or

(c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

(8)(a) If a provider intends to bill a patient or a managed health care system for an audio-only telemedicine service, the provider must obtain patient consent for the billing in advance of the service being delivered and comply with all rules created by the authority related to restrictions on billing Medicaid recipients. The authority may submit information on any potential violations of this subsection to the appropriate disciplining authority, as defined in RCW

18.130.020 or take contractual actions against the provider's agreement for participation in the medicaid program, or both.

(b) If the health care authority has cause to believe that a provider has engaged in a pattern of unresolved violations of this subsection (8), the health care authority may submit information to the appropriate disciplining authority for action. Prior to submitting information to the appropriate disciplining authority, the health care authority may provide the provider with an opportunity to cure the alleged violations or explain why the actions in question did not violate this subsection (8).

(c) If the provider has engaged in a pattern of unresolved violations of this subsection (8), the appropriate disciplining authority may levy a fine or cost recovery upon the provider in an amount not to exceed the applicable statutory amount per violation and take other action as permitted under the authority of the disciplining authority. Upon completion of its review of any potential violation submitted by the health care authority or initiated directly by an enrollee, the disciplining authority shall notify the health care authority of the results of the review, including whether the violation was substantiated and any enforcement action taken as a result of a finding of a substantiated violation.

(9) For purposes of this section:

(a)(i) "Audio-only telemedicine" means the delivery of health care services through the use of audio-only technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.

(ii) For purposes of this section only, "audio-only telemedicine" does not include:

(A) The use of facsimile or email; or

(B) The delivery of health care services that are customarily delivered by audio-only technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results.

(b) "Disciplining authority" has the same meaning as in RCW18.130.020;

(c) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

((b)) (d) "Established relationship" means the covered person has had at least one in-person appointment within the past year with the provider providing audio-only telemedicine or with a provider employed at the same clinic as the provider providing audio-only telemedicine or the covered person was referred to the provider providing audio-only telemedicine by another provider who has had at least one in-person appointment with the covered person within the past year and has provided relevant medical information to the provider providing audio-only telemedicine.

(e) "Health care service" has the same meaning as in RCW 48.43.005;

((e)) (f) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

((d)) (g) "Managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, health insuring organizations, or any combination thereof, that provides directly or by contract health care services covered under this chapter and rendered by licensed providers, on a

prepaid capitated basis and that meets the requirements of section 1903(m)(1)(A) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;

~~((e))~~ (h) "Originating site" means the physical location of a patient receiving health care services through telemedicine;

~~((f))~~ (i) "Provider" has the same meaning as in RCW 48.43.005;

~~((g))~~ (j) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

~~((h))~~ (k) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" ~~((does not include the use of))~~ includes audio-only ~~((telephone))~~ telemedicine, but does not include facsimile~~((;))~~ or email.

~~((9) To measure the impact on access to care for underserved communities and costs to the state and the medicaid managed health care system for reimbursement of telemedicine services, the Washington state health care authority, using existing data and resources, shall provide a report to the appropriate policy and fiscal committees of the legislature no later than December 31, 2018.))~~

NEW SECTION. Sec. 6. A new section is added to chapter 74.09 RCW to read as follows:

(1) The authority shall adopt rules regarding medicaid fee-for-service reimbursement for services delivered through audio-only telemedicine. Except as provided in subsection (2) of this section, the rules must establish a manner of reimbursement for audio-only telemedicine that is consistent with RCW 74.09.325.

(2) The rules shall require rural health clinics to be reimbursed for audio-only telemedicine at the rural health clinic encounter rate.

(3)(a) For purposes of this section, "audio-only telemedicine" means the delivery of health care services through the use of audio-only technology, permitting real-time communication between a patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.

(b) For purposes of this section only, "audio-only telemedicine" does not include:

(i) The use of facsimile or email; or

(ii) The delivery of health care services that are customarily delivered by audio-only technology and customarily not billed as separate services by the provider, such as the sharing of laboratory results.

Sec. 7. RCW 18.130.180 and 2020 c 187 s 2 are each amended to read as follows:

The following conduct, acts, or conditions constitute unprofessional conduct for any license holder under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon such a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this section, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(2) Misrepresentation or concealment of a material fact in obtaining a license or in reinstatement thereof;

(3) All advertising which is false, fraudulent, or misleading;

(4) Incompetence, negligence, or malpractice which results in injury to a patient or which creates an unreasonable risk that a patient may be harmed. The use of a nontraditional treatment by itself shall not constitute unprofessional conduct, provided that it does not result in injury to a patient or create an unreasonable risk that a patient may be harmed;

(5) Suspension, revocation, or restriction of the individual's license to practice any health care profession by competent authority in any state, federal, or foreign jurisdiction, a certified copy of the order, stipulation, or agreement being conclusive evidence of the revocation, suspension, or restriction;

(6) Except when authorized by RCW 18.130.345, the possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diversion of controlled substances or legend drugs, the violation of any drug law, or prescribing controlled substances for oneself;

(7) Violation of any state or federal statute or administrative rule regulating the profession in question, including any statute or rule defining or establishing standards of patient care or professional conduct or practice;

(8) Failure to cooperate with the disciplining authority by:

(a) Not furnishing any papers, documents, records, or other items;

(b) Not furnishing in writing a full and complete explanation covering the matter contained in the complaint filed with the disciplining authority;

(c) Not responding to subpoenas issued by the disciplining authority, whether or not the recipient of the subpoena is the accused in the proceeding; or

(d) Not providing reasonable and timely access for authorized representatives of the disciplining authority seeking to perform practice reviews at facilities utilized by the license holder;

(9) Failure to comply with an order issued by the disciplining authority or a stipulation for informal disposition entered into with the disciplining authority;

(10) Aiding or abetting an unlicensed person to practice when a license is required;

(11) Violations of rules established by any health agency;

(12) Practice beyond the scope of practice as defined by law or rule;

(13) Misrepresentation or fraud in any aspect of the conduct of the business or profession;

(14) Failure to adequately supervise auxiliary staff to the extent that the consumer's health or safety is at risk;

(15) Engaging in a profession involving contact with the public while suffering from a contagious or infectious disease involving serious risk to public health;

(16) Promotion for personal gain of any unnecessary or inefficacious drug, device, treatment, procedure, or service;

(17) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Nothing in this section abrogates rights guaranteed under chapter 9.96A RCW;

(18) The procuring, or aiding or abetting in procuring, a criminal abortion;

(19) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the disciplining authority;

(20) The willful betrayal of a practitioner-patient privilege as recognized by law;

(21) Violation of chapter 19.68 RCW or a pattern of violations of RCW 41.05.700(8), 48.43.735(8), 48.49.020 ((~~8~~)), 48.49.030, 71.24.335(8), or 74.09.325(8);

(22) Interference with an investigation or disciplinary proceeding by willful misrepresentation of facts before the disciplining authority or its authorized representative, or by the use of threats or harassment against any patient or witness to prevent them from providing evidence in a disciplinary proceeding or any other legal action, or by the use of financial inducements to any patient or witness to prevent or attempt to prevent him or her from providing evidence in a disciplinary proceeding;

(23) Current misuse of:

(a) Alcohol;

(b) Controlled substances; or

(c) Legend drugs;

(24) Abuse of a client or patient or sexual contact with a client or patient;

(25) Acceptance of more than a nominal gratuity, hospitality, or subsidy offered by a representative or vendor of medical or health-related products or services intended for patients, in contemplation of a sale or for use in research publishable in professional journals, where a conflict of interest is presented, as defined by rules of the disciplining authority, in consultation with the department, based on recognized professional ethical standards;

(26) Violation of RCW 18.130.420;

(27) Performing conversion therapy on a patient under age eighteen;

(28) Violation of RCW 18.130.430.

NEW SECTION. Sec. 8. (1) The insurance commissioner, in collaboration with the Washington state telehealth collaborative and the health care authority, shall study and make recommendations regarding:

(a) Preliminary utilization trends for audio-only telemedicine;

(b) Qualitative data from health carriers, including medicaid managed care organizations, on the burden of compliance and enforcement requirements for audio-only telemedicine;

(c) Preliminary information regarding whether requiring reimbursement for audio-only telemedicine has affected the incidence of fraud;

(d) Proposed methods to measure the impact of audio-only telemedicine on access to health care services for historically underserved communities and geographic areas;

(e) An evaluation of the relative costs to providers and facilities of providing audio-only telemedicine services as compared to audio-video telemedicine services and in-person services; and

(f) Any other issues the insurance commissioner deems appropriate.

(2) The insurance commissioner must report his or her findings and recommendations to the appropriate committees of the legislature by November 15, 2023.

(3) This section expires January 1, 2024.

Sec. 9. RCW 28B.20.830 and 2020 c 92 s 4 are each amended to read as follows:

(1) The collaborative for the advancement of telemedicine is created to enhance the understanding and use of health services provided through telemedicine and other similar models in Washington state. The collaborative shall be hosted by the University of Washington telehealth services and shall be comprised of one member from each of the two largest caucuses of the senate and the house of representatives, and representatives from the academic community, hospitals, clinics, and health care providers in primary care and specialty practices, carriers, and other interested parties.

(2) By July 1, 2016, the collaborative shall be convened. The collaborative shall develop recommendations on improving reimbursement and access to services, including originating site restrictions, provider to provider consultative models, and technologies and models of care not currently reimbursed; identify the existence of telemedicine best practices, guidelines, billing requirements, and fraud prevention developed by recognized medical and telemedicine organizations; and explore other priorities identified by members of the collaborative. After review of existing resources, the collaborative shall explore and make recommendations on whether to create a technical assistance center to support providers in implementing or expanding services delivered through telemedicine technologies.

(3) The collaborative must submit an initial progress report by December 1, 2016, with follow-up policy reports including recommendations by December 1, 2017, December 1, 2018, and December 1, 2021. The reports shall be shared with the relevant professional associations, governing boards or commissions, and the health care committees of the legislature.

(4) The collaborative shall study store and forward technology, with a focus on:

(a) Utilization;

(b) Whether store and forward technology should be paid for at parity with in-person services;

(c) The potential for store and forward technology to improve rural health outcomes in Washington state; and

(d) Ocular services.

(5) The meetings of the board shall be open public meetings, with meeting summaries available on a web page.

(6) The collaborative must study the need for an established patient/provider relationship before providing audio-only telemedicine, including considering what types of services may be provided without an established relationship. By December 1, 2021, the collaborative must submit a report to the legislature on its recommendations regarding the need for an established relationship for audio-only telemedicine.

(7) The future of the collaborative shall be reviewed by the legislature with consideration of ongoing technical assistance needs and opportunities. The collaborative terminates December 31, (~~2024~~) 2023.

NEW SECTION. Sec. 10. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state. Nothing in this act alters the requirement for the health care authority to report potential fraud to the medicaid fraud control division of the Washington attorney general's office under 42 C.F.R. 455.21.

Passed by the House April 15, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 158

[Substitute House Bill 1207]

DEPARTMENT OF LICENSING ISSUED DOCUMENTS—VARIOUS PROVISIONS

AN ACT Relating to improving access to department of licensing issued documents by extending the issuance period of driver licenses and identicards to eight years, allowing online issuance and renewal of instruction permits, and expanding online renewal of driver licenses and identicards; amending RCW 46.20.049, 46.20.055, 46.20.091, 46.20.120, 46.20.161, 46.20.181, 46.20.202, and 46.20.505; reenacting and amending RCW 46.20.117; creating new sections; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that a driver's license or identicard is a fundamental document that Washingtonians need to live, work, drive, and access essential needs. The COVID-19 pandemic has significantly reduced the department of licensing's ability to provide in-person driver licensing services, resulting in a growing backlog of customers that cannot access the agency's critical services. This act is intended to address that backlog by expanding online renewals, extending driver's license and identicard issuance up to eight years, and providing more online options for instruction permits. The legislature recognizes the critical role of the department of licensing's front line staff during the pandemic and does not intend that this act will result in staffing reductions at the department of licensing now or in the future. To ensure that a

driver's license and identocard remain affordable for Washington residents, the legislature intends for the department of licensing to continue to offer a six-year issuance option. The legislature further recognizes the potential of remote photo capture to enable expanded online renewals while ensuring that customer information remains updated. In implementing remote photo capture, the legislature intends that the department of licensing will prioritize data security and antifraud features as well as closely monitor its usage. The legislature also intends that within a year of initial implementation of remote photo capture, driver's license and identocard photos should be updated with each renewal whenever possible, recognizing that technology limitations and other challenges will prevent some customers from using remote photo capture.

Sec. 2. RCW 46.20.049 and 2012 c 80 s 11 are each amended to read as follows:

There shall be an additional fee for issuing any class of commercial driver's license in addition to the prescribed fee required for the issuance of the original driver's license. The additional fee for each class shall be (~~(eighty-five dollars from October 1, 2012, to June 30, 2013, and one hundred two dollars after June 30, 2013;)~~) one hundred thirty-six dollars for the original commercial driver's license or subsequent renewals. If the commercial driver's license is issued, renewed, or extended for a period other than (~~(five)~~) eight years (~~(from October 1, 2012, to June 30, 2013, or six years after June 30, 2013)~~), the fee for each class shall be seventeen dollars for each year that the commercial driver's license is issued, renewed, or extended. The fee shall be deposited in the highway safety fund.

Sec. 3. RCW 46.20.055 and 2017 c 197 s 6 are each amended to read as follows:

(1) **Driver's instruction permit.** The department may issue a driver's instruction permit online or in person with or without a photograph to an applicant who has successfully passed all parts of the examination other than the driving test, provided the information required by RCW 46.20.091, paid an application fee of twenty-five dollars, and meets the following requirements:

(a) Is at least fifteen and one-half years of age; or

(b) Is at least fifteen years of age and:

(i) Has submitted a proper application; and

(ii) Is enrolled in a driver training education course offered as part of a traffic safety education program authorized by the office of the superintendent of public instruction and certified under chapter 28A.220 RCW or offered by a driver training school licensed and inspected by the department of licensing under chapter 46.82 RCW, that includes practice driving.

(2) **Waiver of written examination for instruction permit.** The department may waive the written examination, if, at the time of application, an applicant is enrolled in a driver training education course as defined in RCW 46.82.280 or 28A.220.020.

The department may require proof of registration in such a course as it deems necessary.

(3) **Effect of instruction permit.** A person holding a driver's instruction permit may drive a motor vehicle, other than a motorcycle, upon the public highways if:

- (a) The person has immediate possession of the permit;
 - (b) The person is not using a wireless communications device, unless the person is using the device to report illegal activity, summon medical or other emergency help, or prevent injury to a person or property; and
 - (c) A driver training education course instructor who meets the qualifications of chapter 46.82 or 28A.220 RCW, or a licensed driver with at least five years of driving experience, occupies the seat beside the driver.
- (4) **Term of instruction permit.** A driver's instruction permit is valid for one year from the date of issue.

- (a) The department may issue one additional one-year permit.
- (b) The department may issue a third driver's permit if it finds after an investigation that the permittee is diligently seeking to improve driving proficiency.
- (c) A person applying for an additional instruction permit must submit the application to the department (~~(in person)~~) and pay an application fee of twenty-five dollars for each issuance.

Sec. 4. RCW 46.20.091 and 2000 c 115 s 4 are each amended to read as follows:

(1) **Application.** In order to apply for a driver's license or instruction permit the applicant must provide (~~(his or her)~~) the applicant's:

- (a) Name of record, as established by documentation required under RCW 46.20.035;
- (b) Date of birth, as established by satisfactory evidence of age;
- (c) Sex;
- (d) Washington residence address;
- (e) Description;
- (f) Driving licensing history, including:
 - (i) Whether the applicant has ever been licensed as a driver or chauffeur and, if so, (A) when and by what state or country; (B) whether the license has ever been suspended or revoked; and (C) the date of and reason for the suspension or revocation; or
 - (ii) Whether the applicant's application to another state or country for a driver's license has ever been refused and, if so, the date of and reason for the refusal; and
- (g) Any additional information required by the department.

(2) **Sworn statement.** An application for an instruction permit or for an original driver's license must be made upon a form provided by the department. The form must include a section for the applicant to indicate whether (~~(he or she)~~) the applicant has received driver training and, if so, where. The identifying documentation verifying the name of record must be accompanied by the applicant's (~~(written)~~) sworn statement that it is valid. (~~(The)~~) For an original driver's license, the information provided on the form must be sworn to and signed by the applicant before a person authorized to administer oaths. An applicant who makes a false statement on an application for a driver's license or instruction permit is guilty of false swearing, a gross misdemeanor, under RCW 9A.72.040.

(3) **Driving records from other jurisdictions.** If a person previously licensed in another jurisdiction applies for a Washington driver's license, the department shall request a copy of the applicant's driver's record from the other

jurisdiction. The driving record from the other jurisdiction becomes a part of the driver's record in this state.

(4) **Driving records to other jurisdictions.** If another jurisdiction requests a copy of a person's Washington driver's record, the department shall provide a copy of the record. The department shall forward the record without charge if the other jurisdiction extends the same privilege to the state of Washington. Otherwise the department shall charge a reasonable fee for transmittal of the record.

Sec. 5. RCW 46.20.117 and 2020 c 261 s 2 and 2020 c 124 s 2 are each reenacted and amended to read as follows:

(1) **Issuance.** The department shall issue an identicard, containing a picture, if the applicant:

(a) Does not hold a valid Washington driver's license;

(b) Proves (~~(his or her)~~) the applicant's identity as required by RCW 46.20.035; and

(c) Pays the required fee. Except as provided in subsection (7) of this section, the fee is (~~(fifty-four)~~) seventy-two dollars, unless an applicant is:

(i) A recipient of continuing public assistance grants under Title 74 RCW, who is referred in writing by the secretary of social and health services or by the secretary of children, youth, and families;

(ii) Under the age of twenty-five and does not have a permanent residence address as determined by the department by rule; or

(iii) An individual who is scheduled to be released from an institution as defined in RCW 13.40.020, a community facility as defined in RCW 72.05.020, or other juvenile rehabilitation facility operated by the department of social and health services or the department of children, youth, and families; or an individual who has been released from such an institution or facility within thirty calendar days before the date of the application.

For those persons under (c)(i) through (iii) of this subsection, the fee must be the actual cost of production of the identicard.

(2)(a) **Design and term.** The identicard must:

(i) Be distinctly designed so that it will not be confused with the official driver's license; and

(ii) Except as provided in subsection (7) of this section, expire on the (~~(sixth)~~) eighth anniversary of the applicant's birthdate after issuance.

(b) The identicard may include the person's status as a veteran, consistent with RCW 46.20.161(4).

(c) If applicable, the identicard may include a medical alert designation as provided in subsection (5) of this section.

(3) **Renewal.** An application for identicard renewal may be submitted by means of:

(a) Personal appearance before the department; (~~(or)~~)

(b) Mail or electronic commerce, if permitted by rule of the department and if the applicant did not renew (~~(his or her)~~) the identicard by mail or by electronic commerce when it last expired; or

(c) From January 1, 2022, to June 30, 2024, electronic commerce, if permitted by rule of the department.

An identicard may not be renewed by mail or by electronic commerce unless the renewal issued by the department includes a photograph of the identicard holder.

(4) **Cancellation.** The department may cancel an identicard if the holder of the identicard used the card or allowed others to use the card in violation of RCW 46.20.0921.

(5) Any person may apply to the department to obtain a medical alert designation, a developmental disability designation, or a deafness designation on an identicard issued under this chapter by providing:

(a) Self-attestation that the individual:

(i) Has a medical condition that could affect communication or account for a health emergency;

(ii) Is deaf or hard of hearing; or

(iii) Has a developmental disability as defined in RCW 71A.10.020;

(b) A statement from the person that they have voluntarily provided the self-attestation and other information verifying the condition; and

(c) For persons under eighteen years of age or who have a developmental disability, the signature of a parent or legal guardian.

(6) A self-attestation or data contained in a self-attestation provided under this section:

(a) Shall not be disclosed; and

(b) Is for the confidential use of the director, the chief of the Washington state patrol, and law enforcement and emergency medical service providers as designated by law.

(7) **Alternative issuance/renewal/extension.** The department may issue or renew an identicard for a period other than ~~((six))~~ eight years, or may extend by mail or electronic commerce an identicard that has already been issued ~~((in order to evenly distribute, as nearly as possible, the yearly renewal rate of identicard holders))~~. The fee for an identicard issued or renewed for a period other than ~~((six))~~ eight years, or that has been extended by mail or electronic commerce, is nine dollars for each year that the identicard is issued, renewed, or extended. The department must offer the option to issue or renew an identicard for six years in addition to the eight year issuance. The department may adopt any rules as are necessary to carry out this subsection.

(8) Identicard photos must be updated in the same manner as driver's license photos under RCW 46.20.120(5).

Sec. 6. RCW 46.20.120 and 2012 c 80 s 7 are each amended to read as follows:

An applicant for a new or renewed driver's license must successfully pass a driver licensing examination to qualify for a driver's license. The department must ensure that examinations are given at places and times reasonably available to the people of this state. If the department does not administer driver licensing examinations as a routine part of its licensing services within a department region because adequate testing sites are provided by driver training schools or school districts within that region, the department shall, at a minimum, administer driver licensing examinations by appointment to applicants eighteen years of age and older in at least one licensing office within that region.

(1) **Waiver.** The department may waive:

(a) All or any part of the examination of any person applying for the renewal of a driver's license unless the department determines that the applicant is not qualified to hold a driver's license under this title; or

(b) All or any part of the examination involving operating a motor vehicle if the applicant:

(i) Surrenders a valid driver's license issued by the person's previous home state; or

(ii) Provides for verification a valid driver's license issued by a foreign driver licensing jurisdiction with which the department has an informal agreement under RCW 46.20.125; and

(iii) Is otherwise qualified to be licensed.

(2) **Fee.** Each applicant for a new license must pay an examination fee of thirty-five dollars.

(a) The examination fee is in addition to the fee charged for issuance of the license.

(b) "New license" means a license issued to a driver:

(i) Who has not been previously licensed in this state; or

(ii) Whose last previous Washington license has been expired for more than ~~((six))~~ eight years.

(3) An application for driver's license renewal may be submitted by means of:

(a) Personal appearance before the department; ~~((or))~~

(b) Mail or electronic commerce, if permitted by rule of the department and if the applicant did not renew ~~((his or her))~~ the license by mail or by electronic commerce when it last expired; or

(c) From January 1, 2022, to June 30, 2024, electronic commerce, if permitted by rule of the department.

(4) A person whose license expired or will expire while ~~((he or she))~~ the licensee is living outside the state, may:

(a) Apply to the department to extend the validity of ~~((his or her))~~ the license for no more than twelve months. If the person establishes to the department's satisfaction that ~~((he or she))~~ the licensee is unable to return to Washington before the date ~~((his or her))~~ the license expires, the department shall extend the person's license. The department may grant consecutive extensions, but in no event may the cumulative total of extensions exceed twelve months. An extension granted under this section does not change the expiration date of the license for purposes of RCW 46.20.181. The department shall charge a fee of five dollars for each license extension;

(b) Apply to the department to renew ~~((his or her))~~ the license by mail or, if permitted by rule of the department, by electronic commerce even if subsection (3)(b) of this section would not otherwise allow renewal by that means. If the person establishes to the department's satisfaction that ~~((he or she))~~ the licensee is unable to return to Washington within twelve months of the date that ~~((his or her))~~ the license expires, the department shall renew the person's license by mail or, if permitted by rule of the department, by electronic commerce.

(5)(a) If a qualified person submits an application for renewal under subsection (3)(b) or (c) or (4)(b) of this section, ~~((he or she))~~ the applicant is not required to pass an examination ~~((nor))~~ and only needs to provide an updated photograph;

(i) At least every 16 years, except that persons under 30 must provide an updated photograph every eight years; and

(ii) Beginning January 1, 2023, persons renewing through electronic commerce must provide an updated photograph in a form and manner approved by the department with each renewal unless they are unable to provide a photograph that meets the department's requirements and the most recent photograph on file with the department is not more than 10 years old at the time of renewal.

(b) A license renewed by mail or by electronic commerce that does not include a photograph of the licensee must be labeled "not valid for identification purposes."

(6) Driver training schools licensed by the department under chapter 46.82 RCW may administer the portions of the driver licensing examination that test the applicant's knowledge of traffic laws and ability to safely operate a motor vehicle.

(7) School districts that offer a traffic safety education program under chapter 28A.220 RCW may administer the portions of the driver licensing examination that test the applicant's knowledge of traffic laws and ability to safely operate a motor vehicle.

Sec. 7. RCW 46.20.161 and 2020 c 261 s 3 are each amended to read as follows:

(1) The department, upon receipt of a fee of ~~((forty-five))~~ seventy-two dollars ~~((from October 1, 2012, to June 30, 2013, and fifty-four dollars after June 30, 2013)),~~ unless the driver's license is issued for a period other than ~~((five))~~ eight years ~~((from October 1, 2012, to June 30, 2013, or six years after June 30, 2013)),~~ in which case the fee shall be nine dollars for each year that the license is issued, which includes the fee for the required photograph, shall issue to every qualifying applicant a driver's license. A driver's license issued to a person under the age of eighteen is an intermediate license, subject to the restrictions imposed under RCW 46.20.075, until the person reaches the age of eighteen.

(2) The license must include:

(a) A distinguishing number assigned to the licensee;

(b) The name of record;

(c) Date of birth;

(d) Washington residence address;

(e) Photograph;

(f) A brief description of the licensee;

(g) Either a facsimile of the signature of the licensee or a space upon which the licensee shall write ~~((his or her))~~ the licensees' usual signature with pen and ink immediately upon receipt of the license;

(h) If applicable, the person's status as a veteran as provided in subsection (4) of this section; and

(i) If applicable, a medical alert designation as provided in subsection (5) of this section.

(3) No license is valid until it has been signed by the licensee.

(4)(a) A veteran, as defined in RCW 41.04.007, or an individual who otherwise meets the criteria of RCW 41.04.007 but who has received a general discharge under honorable conditions, may apply to the department to obtain a veteran designation on a driver's license issued under this section by providing:

(i) A United States department of veterans affairs identification card or proof of service letter;

(ii) A United States department of defense discharge document, DD Form 214 or DD Form 215, as it exists on June 7, 2018, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, or equivalent or successor discharge paperwork, that shows a discharge status of "honorable" or "general under honorable conditions" that establishes the person's service in the armed forces of the United States;

(iii) A national guard state-issued report of separation and military service, NGB Form 22, as it exists on June 7, 2018, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this section, or equivalent or successor discharge paperwork, that shows a discharge status of "honorable" or "general under honorable conditions" that establishes the person's active duty or reserve service in the national guard; or

(iv) A United States uniformed services identification card, DD Form 2, that displays on its face that it has been issued to a retired member of any of the armed forces of the United States, including the national guard and armed forces reserves.

(b) The department may permit a veteran, as defined in RCW 41.04.007, or an individual who otherwise meets the criteria of RCW 41.04.007 but who has received a general discharge under honorable conditions, to submit an alternate form of documentation to apply to obtain a veteran designation on a driver's license, as specified by rule, that requires a discharge status of "honorable" or "general under honorable conditions" and that establishes the person's service as required under RCW 41.04.007.

(5) Any person may apply to the department to obtain a medical alert designation, a developmental disability designation, or a deafness designation on a driver's license issued under this chapter by providing:

(a) Self-attestation that the individual:

(i) Has a medical condition that could affect communication or account for a driver health emergency;

(ii) Is deaf or hard of hearing; or

(iii) Has a developmental disability as defined in RCW 71A.10.020;

(b) A statement from the person that they have voluntarily provided the self-attestation and other information verifying the condition; and

(c) For persons under eighteen years of age or who have a developmental disability, the signature of a parent or legal guardian.

(6) A self-attestation or data contained in a self-attestation provided under this section:

(a) Shall not be disclosed;

(b) Is for the confidential use of the director, the chief of the Washington state patrol, and law enforcement and emergency medical service providers as designated by law; and

(c) Is subject to the privacy protections of the driver's privacy protection act, 18 U.S.C. Sec. 2725.

Sec. 8. RCW 46.20.181 and 2012 c 80 s 9 are each amended to read as follows:

(1) Except as provided in subsection (4) or (5) of this section, every driver's license expires on the ~~((sixth))~~ eighth anniversary of the licensee's birthdate following the issuance of the license.

(2) A person may renew ~~((his or her))~~ a license on or before the expiration date by submitting an application as prescribed by the department and paying a fee of ~~((forty-five))~~ seventy-two dollars ~~((from October 1, 2012, to June 30, 2013, and fifty-four dollars after June 30, 2013))~~. This fee includes the fee for the required photograph.

(3) A person renewing ~~((his or her))~~ a driver's license more than sixty days after the license has expired shall pay a penalty fee of ten dollars in addition to the renewal fee, unless ~~((his or her))~~ the license expired when:

(a) The person was outside the state and ~~((he or she))~~ the licensee renews the license within sixty days after returning to this state; or

(b) The person was incapacitated and ~~((he or she))~~ the licensee renews the license within sixty days after the termination of the incapacity.

(4) The department may issue or renew a driver's license for a period other than ~~((five))~~ eight years ~~((from October 1, 2012, to June 30, 2013, or six years after June 30, 2013))~~, or may extend by mail or electronic commerce a license that has already been issued ~~((, in order to evenly distribute, as nearly as possible, the yearly renewal rate of licensed drivers))~~. The fee for a driver's license issued or renewed for a period other than ~~((five))~~ eight years ~~((from October 1, 2012, to June 30, 2013, or six years after June 30, 2013))~~, or that has been extended by mail or electronic commerce, is nine dollars for each year that the license is issued, renewed, or extended. The department must offer the option to issue or renew a driver's license for six years in addition to the eight year issuance. The department may adopt any rules as are necessary to carry out this subsection.

(5) A driver's license that includes a hazardous materials endorsement under chapter 46.25 RCW may expire on an anniversary of the licensee's birthdate other than the ~~((sixth))~~ eighth year following issuance or renewal of the license in order to match, as nearly as possible, the validity of certification from the federal transportation security administration that the licensee has been determined not to pose a security risk. The fee for a driver's license issued or renewed for a period other than ~~((five))~~ eight years ~~((from October 1, 2012, to June 30, 2013, or six years after June 30, 2013;))~~ is nine dollars for each year that the license is issued or renewed, not including any endorsement fees. The department may adjust the expiration date of a driver's license that has previously been issued to conform to the provisions of this subsection if a hazardous materials endorsement is added to the license subsequent to its issuance. If the validity of the driver's license is extended, the licensee must pay a fee of nine dollars for each year that the license is extended.

(6) The department may adopt any rules as are necessary to carry out this section.

Sec. 9. RCW 46.20.202 and 2017 c 310 s 3 are each amended to read as follows:

(1) The department may enter into a memorandum of understanding with any federal agency for the purposes of facilitating the crossing of the border between the state of Washington and the Canadian province of British Columbia.

(2) The department may enter into an agreement with the Canadian province of British Columbia for the purposes of implementing a border-crossing initiative.

(3)(a) The department may issue an enhanced driver's license or identicard for the purposes of crossing the border between the state of Washington and the Canadian province of British Columbia to an applicant who provides the department with proof of: United States citizenship, identity, and state residency. The department shall continue to offer a standard driver's license and identicard. If the department chooses to issue an enhanced driver's license, the department must allow each applicant to choose between a standard driver's license or identicard, or an enhanced driver's license or identicard.

(b) The department shall implement a one-to-many biometric matching system for the enhanced driver's license or identicard. An applicant for an enhanced driver's license or identicard shall submit a biometric identifier as designated by the department. The biometric identifier must be used solely for the purpose of verifying the identity of the holders and for any purpose set out in RCW 46.20.037. Applicants are required to sign a declaration acknowledging their understanding of the one-to-many biometric match.

(c) The enhanced driver's license or identicard must include reasonable security measures to protect the privacy of Washington state residents, including reasonable safeguards to protect against unauthorized disclosure of data about Washington state residents. If the enhanced driver's license or identicard includes a radio frequency identification chip, or similar technology, the department shall ensure that the technology is encrypted or otherwise secure from unauthorized data access.

(d) The requirements of this subsection are in addition to the requirements otherwise imposed on applicants for a driver's license or identicard. The department shall adopt such rules as necessary to meet the requirements of this subsection. From time to time the department shall review technological innovations related to the security of identity cards and amend the rules related to enhanced driver's licenses and identicards as the director deems consistent with this section and appropriate to protect the privacy of Washington state residents.

(e) Notwithstanding RCW 46.20.118, the department may make images associated with enhanced drivers' licenses or identicards from the negative file available to United States customs and border agents for the purposes of verifying identity.

(4) Beginning on July 23, 2017, the fee for an enhanced driver's license or enhanced identicard is ~~((twenty-four))~~ thirty-two dollars, which is in addition to the fees for any regular driver's license or identicard. If the enhanced driver's license or enhanced identicard is issued, renewed, or extended for a period other than ~~((six))~~ eight years, the fee for each class is four dollars for each year that the enhanced driver's license or enhanced identicard is issued, renewed, or extended.

(5) The enhanced driver's license and enhanced identicard fee under this section must be deposited into the highway safety fund unless prior to July 1, 2023, the actions described in (a) or (b) of this subsection occur, in which case the portion of the revenue that is the result of the fee increased in section 209, chapter 44, Laws of 2015 3rd sp. sess. must be distributed to the connecting Washington account created under RCW 46.68.395.

(a) Any state agency files a notice of rule making under chapter 34.05 RCW for a rule regarding a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(b) Any state agency otherwise enacts, adopts, orders, or in any way implements a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

(c) Nothing in this subsection acknowledges, establishes, or creates legal authority for the department of ecology or any other state agency to enact, adopt, order, or in any way implement a fuel standard based upon or defined by the carbon intensity of fuel, including a low carbon fuel standard or clean fuel standard.

Sec. 10. RCW 46.20.505 and 2012 c 80 s 13 are each amended to read as follows:

Every person applying for a special endorsement of a driver's license authorizing such person to drive a two or three-wheeled motorcycle or a motor-driven cycle shall pay a fee of five dollars, which is not refundable. In addition, the endorsement fee for the initial motorcycle endorsement shall not exceed ~~((twelve))~~ sixteen dollars, unless the endorsement is issued for a period other than ~~((six))~~ eight years, in which case the endorsement fee shall not exceed two dollars for each year the initial motorcycle endorsement is issued. The subsequent renewal endorsement fee shall not exceed ~~((thirty))~~ forty dollars, unless the endorsement is renewed or extended for a period other than ~~((six))~~ eight years, in which case the subsequent renewal endorsement fee shall not exceed five dollars for each year that the endorsement is renewed or extended. Fees collected under this section shall be deposited in the motorcycle safety education account of the highway safety fund.

NEW SECTION. **Sec. 11.** The department of licensing must evaluate the impact of expanded online renewals and remote photo capture on backlog reduction, access to services, employment, public safety, identity fraud, and other topics as determined by the department. In completing this evaluation, the department of licensing must consult with relevant stakeholders and experts, including law enforcement, organizations representing the department's employees, organizations with expertise in data security and identity fraud, organizations representing commercial drivers, and others as determined by the department. The department of licensing must submit a report to the governor and transportation committees of the legislature by December 1, 2023.

NEW SECTION. **Sec. 12.** Sections 2 and 5 through 11 of this act take effect January 1, 2022.

NEW SECTION. **Sec. 13.** Sections 1, 3, and 4 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

Passed by the House April 13, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 159

[Substitute House Bill 1218]

LONG-TERM CARE FACILITIES—VARIOUS PROVISIONS

AN ACT Relating to improving the health, safety, and quality of life for residents in long-term care facilities through emergency preparedness, improvements in communications, resident information, and notice of sanctions; amending RCW 18.51.009, 18.51.260, 74.42.420, 74.42.460, 70.129.020, 70.129.030, 70.129.040, 70.129.080, 70.129.090, 70.129.110, 70.129.150, and 70.129.180; reenacting and amending RCW 70.129.010; adding new sections to chapter 18.20 RCW; adding new sections to chapter 18.51 RCW; adding new sections to chapter 70.97 RCW; adding new sections to chapter 70.128 RCW; adding new sections to chapter 70.129 RCW; adding a new section to chapter 70.01 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:

(1) Residents in licensed long-term care facilities have been disproportionately impacted and isolated by the COVID-19 pandemic and over 50 percent of all COVID-19 deaths in Washington have been associated with long-term care facilities;

(2) According to a University of Washington report, social isolation creates a "double pandemic" that disrupts care and exacerbates the difficulties of dementia, depression, suicide risk, chronic health conditions, and other challenges faced by long-term care residents and providers;

(3) A "digital divide" exists in many parts of Washington, particularly for older adults of color with low incomes and those in rural communities;

(4) Residents with sensory limitations, mental illness, intellectual disabilities, dementia, cognitive limitations, traumatic brain injuries, or other disabilities may not be able to fully utilize digital tools which exacerbates their social isolation;

(5) Long-term care facilities already have the legal responsibility to care for their residents in a manner and in an environment that promotes the maintenance or enhancement of each resident's quality of life. A resident should have a safe, clean, comfortable, and homelike environment as detailed in chapter 70.129 RCW; and

(6) The COVID-19 pandemic has exposed systematic weaknesses in the state's long-term care system and there is a need to enact additional measures to protect and improve the health, safety, and quality of life of residents.

NEW SECTION. **Sec. 2.** A new section is added to chapter 18.20 RCW to read as follows:

The department must require an assisted living facility that is subject to a stop placement order or limited stop placement order under RCW 18.20.190 to publicly post in a conspicuous place at the facility a standardized notice that the department has issued a stop placement order or limited stop placement order for the facility. The standardized notice shall be developed by the department to include the date of the stop placement order or limited stop placement order, any conditions placed upon the facility's license, contact information for the department, contact information for the administrator or provider of the assisted living facility, and a statement that anyone may contact the department or the administrator or provider for further information. The notice must remain posted until the department has terminated the stop placement order or limited stop placement order.

NEW SECTION, Sec. 3. A new section is added to chapter 18.20 RCW to read as follows:

(1) The department shall require each assisted living facility to:

(a) Create and regularly maintain a current resident roster containing the name and room number of each resident and provide a written copy immediately upon an in-person request from any long-term care ombuds;

(b) Create and regularly maintain current, accurate, and aggregated contact information for all residents, including contact information for the resident representative, if any, of each resident. The contact information for each resident must include the resident's name, room number, and, if available, telephone number and email address. The contact information for each resident representative must include the resident representative's name, relationship to the resident, phone number, and, if available, email and mailing address;

(c) Record and update the aggregated contact information required by this section, upon receipt of new or updated contact information from the resident or resident representative; and

(d) Upon the written request of any long-term care ombuds that includes reference to this section and the relevant legal functions and duties of long-term care ombuds, provide a copy of the aggregated contact information required by this section within 48 hours, or within a reasonable time if agreed to by the requesting long-term care ombuds by electronic copy to the secure email address or facsimile number provided in the written request.

(2) In accordance with the federal older Americans act, federal regulations, and state laws that govern the state long-term care ombuds program, the department shall inform assisted living facilities that:

(a) Any long-term care ombuds is authorized to request and obtain from assisted living facilities the information required by this section in order to perform the functions and duties of long-term care ombuds as set forth in federal and state laws;

(b) The state long-term care ombuds program and all long-term care ombuds are considered a "health oversight agency," so that the federal health insurance portability and accountability act and chapter 70.02 RCW do not preclude assisted living facilities from providing the information required by this section when requested by any long-term care ombuds, and pursuant to these laws, the federal older Americans act, federal regulations, and state laws that govern the state long-term care ombuds program, facilities are not required to seek or obtain consent from residents or resident representatives prior to providing the information required by this section in accordance with the requirements of this section;

(c) The information required by this section, when provided by an assisted living facility to a requesting long-term care ombuds, becomes property of the state long-term care ombuds program and is subject to all state and federal laws governing the confidentiality and disclosure of the files, records, and information maintained by the state long-term care ombuds program or any local long-term care ombuds entity; and

(d) The assisted living facility may not refuse to provide or unreasonably delay providing the resident roster, the contact information for a resident or resident representative, or the aggregated contact information required by this

section on any basis, including on the basis that the facility must first seek or obtain consent from one or more of the residents or resident representatives.

(3) Nothing in this section shall interfere with or diminish the authority of any long-term care ombuds to access facilities, residents, and resident records as otherwise authorized by law.

(4) For the purposes of this section, "resident representative" has the same meaning as in RCW 70.129.010.

NEW SECTION. Sec. 4. A new section is added to chapter 18.20 RCW to read as follows:

(1) Each assisted living facility shall be responsive to incoming communications and respond within a reasonable time to phone and electronic messages.

(2) Each assisted living facility must have a communication system, including a sufficient quantity of working telephones and other communication equipment, to ensure that residents have 24-hour access to communications with family, medical providers, and others, and also to allow for emergency contact to and from facility staff. The telephones and communication equipment must provide for auditory privacy, not be located in a staff office or station, be accessible and usable by persons with hearing loss and other disabilities, and not require payment for local calls. An assisted living facility is not required to provide telephones at no cost in each resident room.

NEW SECTION. Sec. 5. A new section is added to chapter 18.20 RCW to read as follows:

(1) Each assisted living facility shall develop and maintain a comprehensive disaster preparedness plan to be followed in the event of a disaster or emergency, including fires, earthquakes, floods, infectious disease outbreaks, loss of power or water, and other events that may require sheltering in place, evacuations, or other emergency measures to protect the health and safety of residents. The facility shall review the comprehensive disaster preparedness plan annually, update the plan as needed, and train all employees when they begin work in the facility on the comprehensive disaster preparedness plan and related staff procedures.

(2) The department shall adopt rules governing the comprehensive disaster preparedness plan. At a minimum, the rules must address: Timely communication with the residents' emergency contacts; timely communication with state and local agencies, long-term care ombuds, and developmental disabilities ombuds; contacting and requesting emergency assistance; on-duty employees' responsibilities; meeting residents' essential needs; procedures to identify and locate residents; and procedures to provide emergency information to provide for the health and safety of residents. In addition, the rules shall establish standards for maintaining personal protective equipment and infection control capabilities, as well as department inspection procedures with respect to the plans.

Sec. 6. RCW 18.51.009 and 1994 c 214 s 22 are each amended to read as follows:

RCW 70.129.007, 70.129.105, (~~and~~) 70.129.150 through 70.129.170, and section 20 of this act apply to this chapter and persons regulated under this chapter.

Sec. 7. RCW 18.51.260 and 1987 c 476 s 26 are each amended to read as follows:

(1) Each citation for a violation specified in RCW 18.51.060 which is issued pursuant to this section (~~and which has become final~~), or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the director, until the violation is corrected to the satisfaction of the department up to a maximum of one hundred twenty days. The citation or copy shall be posted in a place or places in plain view of the patients in the nursing home, persons visiting those patients, and persons who inquire about placement in the facility.

(2) The department shall require a nursing home that is subject to a stop placement order or limited stop placement order under RCW 18.51.060 to publicly post in a conspicuous place at the nursing home a standardized notice that the department has issued a stop placement order or limited stop placement order for the nursing home. The standardized notice shall be developed by the department to include the date of the stop placement order or limited stop placement order, any conditions placed upon the nursing home's license, contact information for the department, contact information for the administrator or provider of the nursing home, and a statement that anyone may contact the department or the administrator or provider for further information. The notice must remain posted until the department has terminated the stop placement order or limited stop placement order.

NEW SECTION. Sec. 8. A new section is added to chapter 18.51 RCW to read as follows:

(1) The department shall require each nursing home to:

(a) Create and regularly maintain a current resident roster containing the name and room number of each resident and provide a written copy immediately upon an in-person request from any long-term care ombuds;

(b) Create and regularly maintain current, accurate, and aggregated contact information for all residents, including contact information for the resident representative, if any, of each resident. The contact information for each resident must include the resident's name, room number, and, if available, telephone number and email address. The contact information for each resident representative must include the resident representative's name, relationship to the resident, phone number, and, if available, email and mailing address;

(c) Record and update the aggregated contact information required by this section, upon receipt of new or updated contact information from the resident or resident representative; and

(d) Upon the written request of any long-term care ombuds that includes reference to this section and the relevant legal functions and duties of long-term care ombuds, provide a copy of the aggregated contact information required by this section within 48 hours, or within a reasonable time if agreed to by the requesting long-term care ombuds, by electronic copy to the secure email address or facsimile number provided in the written request.

(2) In accordance with the federal older Americans act, federal regulations, and state laws that govern the state long-term care ombuds program, the department shall inform nursing homes that:

(a) Any long-term care ombuds is authorized to request and obtain from nursing homes the information required by this section in order to perform the

functions and duties of long-term care ombuds as set forth in federal and state laws;

(b) The state long-term care ombuds program and all long-term care ombuds are considered a "health oversight agency," so that the federal health insurance portability and accountability act and chapter 70.02 RCW do not preclude nursing homes from providing the information required by this section when requested by any long-term care ombuds, and pursuant to these laws, the federal older Americans act, federal regulations, and state laws that govern the state long-term care ombuds program, nursing homes are not required to seek or obtain consent from residents or resident representatives prior to providing the information required by this section in accordance with the requirements of this section;

(c) The information required by this section, when provided by a nursing home to a requesting long-term care ombuds, becomes property of the state long-term care ombuds program and is subject to all state and federal laws governing the confidentiality and disclosure of the files, records, and information maintained by the state long-term care ombuds program or any local long-term care ombuds entity; and

(d) The nursing home may not refuse to provide or unreasonably delay providing the resident roster, the contact information for a resident or resident representative, or the aggregated contact information required by this section, on any basis, including on the basis that the nursing home must first seek or obtain consent from one or more of the residents or resident representatives.

(3) Nothing in this section shall interfere with or diminish the authority of any long-term care ombuds to access nursing homes, residents, and resident records as otherwise authorized by law.

(4) For the purposes of this section, "resident representative" has the same meaning as in RCW 70.129.010.

NEW SECTION. Sec. 9. A new section is added to chapter 18.51 RCW to read as follows:

(1) Each nursing home must be responsive to incoming communications and respond within a reasonable time to phone and electronic messages.

(2) Each nursing home must have a communication system, including a sufficient quantity of working telephones and other communication equipment to ensure that residents have 24-hour access to communications with family, medical providers, and others, and also to allow for emergency contact to and from facility staff. The telephones and communication equipment must provide for auditory privacy, not be located in a staff office or station, be accessible and usable by persons with hearing loss and other disabilities, and not require payment for local calls. A nursing home is not required to provide telephones at no cost in each resident room.

Sec. 10. RCW 74.42.420 and 1979 ex.s. c 211 s 42 are each amended to read as follows:

The facility shall maintain an organized record system containing a record for each resident. The record shall contain:

(1) Identification information, including the information listed in section 8(1) of this act;

(2) Admission information, including the resident's medical and social history;

(3) A comprehensive plan of care and subsequent changes to the comprehensive plan of care;

(4) Copies of initial and subsequent periodic examinations, assessments, evaluations, and progress notes made by the facility and the department;

(5) Descriptions of all treatments, services, and medications provided for the resident since the resident's admission;

(6) Information about all illnesses and injuries including information about the date, time, and action taken; and

(7) A discharge summary.

Resident records shall be available to the staff members directly involved with the resident and to appropriate representatives of the department. The facility shall protect resident records against destruction, loss, and unauthorized use. The facility shall keep a resident's record after the resident is discharged as provided in RCW 18.51.300.

NEW SECTION. Sec. 11. A new section is added to chapter 18.51 RCW to read as follows:

(1) Each nursing home shall develop and maintain a comprehensive disaster preparedness plan to be followed in the event of a disaster or emergency, including fires, earthquakes, floods, infectious disease outbreaks, loss of power or water, and other events that may require sheltering in place, evacuations, or other emergency measures to protect the health and safety of residents. The nursing home shall review the comprehensive disaster preparedness plan annually, update the plan as needed, and train all employees when they begin work in the nursing home on the comprehensive disaster preparedness plan and related staff procedures.

(2) The department shall adopt rules governing the comprehensive disaster preparedness plan. At a minimum, the rules must address the following if not already adequately addressed by federal requirements for emergency planning: Timely communication with the residents' emergency contacts; timely communication with state and local agencies, long-term care ombuds, and developmental disabilities ombuds; contacting and requesting emergency assistance; on-duty employees' responsibilities; meeting residents' essential needs; procedures to identify and locate residents; and procedures to provide emergency information to provide for the health and safety of residents. In addition, the rules shall establish standards for maintaining personal protective equipment and infection control capabilities, as well as department inspection procedures with respect to the plans.

Sec. 12. RCW 74.42.460 and 1979 ex.s. c 211 s 46 are each amended to read as follows:

The facility shall have a written staff organization plan and detailed written procedures to meet potential emergencies and disasters. The facility shall clearly communicate and periodically review the plan and procedures with the staff and residents. The plan and procedures shall be posted at suitable locations throughout the facility. The planning requirement of this section shall complement the comprehensive disaster preparedness planning requirement of section 11 of this act.

NEW SECTION. Sec. 13. A new section is added to chapter 70.97 RCW to read as follows:

The department shall require an enhanced services facility that is subject to a stop placement order or limited stop placement order under RCW 70.97.110 to publicly post in a conspicuous place at the facility a standardized notice that the department has issued a stop placement order or limited stop placement order for the facility. The standardized notice shall be developed by the department to include the date of the stop placement order or limited stop placement order, any conditions placed upon the facility's license, contact information for the department, contact information for the administrator or provider of the facility, and a statement that anyone may contact the department or the administrator or provider for further information. The notice must remain posted until the department has terminated the stop placement order or limited stop placement order.

NEW SECTION. Sec. 14. A new section is added to chapter 70.97 RCW to read as follows:

(1) The department shall require each enhanced services facility to:

(a) Create and regularly maintain a current resident roster containing the name and room number of each resident and provide a written copy immediately upon an in-person request from any long-term care ombuds;

(b) Create and regularly maintain current, accurate, and aggregated contact information for all residents, including contact information for the resident representative, if any, of each resident. The contact information for each resident must include the resident's name, room number, and, if available, telephone number and email address. The contact information for each resident representative must include the resident representative's name, relationship to the resident, phone number, and, if available, email and mailing address;

(c) Record and update the aggregated contact information required by this section, upon receipt of new or updated contact information from the resident or resident representative; and

(d) Upon the written request of any long-term care ombuds that includes reference to this section and the relevant legal functions and duties of long-term care ombuds, provide a copy of the aggregated contact information required by this section within 48 hours, or within a reasonable time if agreed to by the requesting long-term care ombuds, by electronic copy to the secure email address or facsimile number provided in the written request.

(2) In accordance with the federal older Americans act, federal regulations, and state laws that govern the state long-term care ombuds program, the department shall inform enhanced services facilities that:

(a) Any long-term care ombuds is authorized to request and obtain from enhanced services facilities the information required by this section in order to perform the functions and duties of long-term care ombuds as set forth in federal and state laws;

(b) The state long-term care ombuds program and all long-term care ombuds are considered a "health oversight agency," so that the federal health insurance portability and accountability act and chapter 70.02 RCW do not preclude enhanced services facilities from providing the information required by this section when requested by any long-term care ombuds, and pursuant to these laws, the federal older Americans act, federal regulations, and state laws that

govern the state long-term care ombuds program, facilities are not required to seek or obtain consent from residents or resident representatives prior to providing the information required by this section in accordance with the requirements of this section;

(c) The information required by this section, when provided by an enhanced services facility to a requesting long-term care ombuds, becomes property of the state long-term care ombuds program and is subject to all state and federal laws governing the confidentiality and disclosure of the files, records, and information maintained by the state long-term care ombuds program or any local long-term care ombuds entity; and

(d) The enhanced services facility may not refuse to provide or unreasonably delay providing the resident roster, the contact information for a resident or resident representative, or the aggregated contact information required by this section, on any basis, including on the basis that the enhanced services facility must first seek or obtain consent from one or more of the residents or resident representatives.

(3) Nothing in this section shall interfere with or diminish the authority of any long-term care ombuds to access facilities, residents, and resident records as otherwise authorized by law.

(4) For the purposes of this section, "resident representative" has the same meaning as in RCW 70.129.010.

NEW SECTION. Sec. 15. A new section is added to chapter 70.97 RCW to read as follows:

(1) Each enhanced services facility must be responsive to incoming communications and respond within a reasonable time to phone and electronic messages.

(2) Each enhanced services facility must have a communication system, including a sufficient quantity of working telephones and other communication equipment to assure that residents have 24-hour access to communications with family, medical providers, and others, and also to allow for emergency contact to and from facility staff. The telephones and communication equipment must provide for auditory privacy, not be located in a staff office or station, be accessible and usable by persons with hearing loss and other disabilities, and not require payment for local calls. An enhanced services facility is not required to provide telephones at no cost in each resident room.

NEW SECTION. Sec. 16. A new section is added to chapter 70.97 RCW to read as follows:

(1) Each enhanced services facility shall develop and maintain a comprehensive disaster preparedness plan to be followed in the event of a disaster or emergency, including fires, earthquakes, floods, infectious disease outbreaks, loss of power or water, and other events that may require sheltering in place, evacuations, or other emergency measures to protect the health and safety of residents. The enhanced services facility must review the comprehensive disaster preparedness plan annually, update the plan as needed, and train all employees when they begin work in the enhanced services facility on the comprehensive disaster preparedness plan and related staff procedures.

(2) The department shall adopt rules governing the comprehensive disaster preparedness plan. At a minimum, the rules must address: Timely

communication with the residents' emergency contacts; timely communication with state and local agencies, long-term care ombuds, and developmental disabilities ombuds; contacting and requesting emergency assistance; on-duty employees' responsibilities; meeting residents' essential needs; procedures to identify and locate residents; and procedures to provide emergency information to provide for the health and safety of residents. In addition, the rules shall establish standards for maintaining personal protective equipment and infection control capabilities, as well as department inspection procedures with respect to the plans.

NEW SECTION. Sec. 17. A new section is added to chapter 70.128 RCW to read as follows:

(1) The department shall require each adult family home to:

(a) Create and regularly maintain a current resident roster containing the name and room number of each resident and provide a written copy immediately upon an in-person request from any long-term care ombuds;

(b) Create and regularly maintain current, accurate, and aggregated contact information for all residents, including contact information for the resident representative, if any, of each resident. The contact information for each resident must include the resident's name, room number, and, if available, telephone number and email address. The contact information for each resident representative must include the resident representative's name, relationship to the resident, phone number, and, if available, email and mailing address;

(c) Record and update the aggregated contact information required by this section, upon receipt of new or updated contact information from the resident or resident representative; and

(d) Upon the written request of any long-term care ombuds that includes reference to this section and the relevant legal functions and duties of long-term care ombuds, provide a copy of the aggregated contact information required by this section within 48 hours, or within a reasonable time if agreed to by the requesting long-term care ombuds, by electronic copy to the secure email address or facsimile number provided in the written request.

(2) In accordance with the federal older Americans act, federal regulations, and state laws that govern the state long-term care ombuds program, the department shall inform adult family homes that:

(a) Any long-term care ombuds is authorized to request and obtain from adult family homes the information required by this section in order to perform the functions and duties of long-term care ombuds as set forth in federal and state laws;

(b) The state long-term care ombuds program and all long-term care ombuds are considered a "health oversight agency," so that the federal health insurance portability and accountability act and chapter 70.02 RCW do not preclude adult family homes from providing the information required by this section when requested by any long-term care ombuds, and pursuant to these laws, the federal older Americans act, federal regulations, and state laws that govern the state long-term care ombuds program, adult family homes are not required to seek or obtain consent from residents or resident representatives prior to providing the information required by this section in accordance with the requirements of this section;

(c) The information required by this section, when provided by an adult family home to a requesting long-term care ombuds, becomes property of the state long-term care ombuds program and is subject to all state and federal laws governing the confidentiality and disclosure of the files, records, and information maintained by the state long-term care ombuds program or any local long-term care ombuds entity; and

(d) The adult family home may not refuse to provide or unreasonably delay providing the resident roster, the contact information for a resident or resident representative, or the aggregated contact information required by this section, on any basis, including on the basis that the adult family home must first seek or obtain consent from one or more of the residents or resident representatives.

(3) Nothing in this section shall interfere with or diminish the authority of any long-term care ombuds to access facilities, residents, and resident records as otherwise authorized by law.

(4) For the purposes of this section, "resident representative" has the same meaning as in RCW 70.129.010.

NEW SECTION. Sec. 18. A new section is added to chapter 70.128 RCW to read as follows:

The department must require an adult family home that is subject to a stop placement order or limited stop placement order under RCW 70.128.160 to publicly post in a conspicuous place at the adult family home a standardized notice that the department has issued a stop placement order or limited stop placement order for the adult family home. The standardized notice shall be developed by the department to include the date of the stop placement order or limited stop placement order, any conditions placed upon the adult family home's license, contact information for the department, contact information for the administrator or provider of the adult family home, and a statement that anyone may contact the department or the administrator or provider for further information. The notice must remain posted until the department has terminated the stop placement order or limited stop placement order.

NEW SECTION. Sec. 19. A new section is added to chapter 70.129 RCW to read as follows:

The department of social and health services and the department of health, in collaboration with the state office of the long-term care ombuds and representatives of long-term care facilities, shall develop training materials to educate the leadership and staff of local health jurisdictions on the state's long-term care system. The training materials must provide information to assist local health jurisdiction personnel when establishing and enforcing public health measures in long-term care facilities and nursing homes, including:

(1) All applicable state and federal resident rights, including the due process rights of residents; and

(2) The process for local health jurisdiction personnel to report abuse and neglect in facilities and nursing homes, including during periods when visitation may be limited.

NEW SECTION. Sec. 20. A new section is added to chapter 70.129 RCW to read as follows:

(1) In circumstances in which limitations must be placed on resident visitation due to a public health emergency or other threat to the health and

safety of the residents and staff of a facility or nursing home, residents must still be allowed access to an essential support person, subject to reasonable limitations on such access tailored to protecting the health and safety of essential support persons, residents, and staff.

(2) The facility or nursing home must allow private, in-person access to the resident by the essential support person in the resident's room. If the resident resides in a shared room, and the roommate, or the roommate's resident representative, if any, does not consent or the visit cannot be conducted safely in a shared room, then the facility or nursing home shall designate a substitute location in the facility or nursing home for the resident and essential support person to visit.

(3) The facility or nursing home shall develop and implement reasonable conditions on access by an essential support person tailored to protecting the health and safety of the essential support person, residents, and staff, based upon the particular public health emergency or other health or safety threat.

(4) The facility or nursing home may temporarily suspend an individual's designation as an essential support person for failure to comply with these requirements or reasonable conditions developed and implemented by the facility or nursing home that are tailored to protecting that health and safety of the essential support person, residents, and staff, based upon the particular public health emergency or other health or safety threat. Unless immediate action is necessary to prevent an imminent and serious threat to the health or safety of residents or staff, the facility or nursing home shall attempt to resolve the concerns with the essential support person and the resident prior to temporarily suspending the individual's designation as an essential support person. The suspension shall last no longer than 48 hours during which time the facility or nursing home must contact the department for guidance and must provide the essential support person:

(a) Information regarding the steps the essential support person must take to resume the visits, such as agreeing to comply with reasonable conditions tailored to protecting the health and safety of the essential support person, residents, and staff, based upon the particular public health emergency or other health or safety threat;

(b) The contact information for the long-term care ombuds program; and

(c) As appropriate, the contact information for the developmental disabilities ombuds, the agency responsible for the protection and advocacy system for individuals with developmental disabilities, and the agency responsible for the protection and advocacy system for individuals with mental illness.

(5) For the purposes of this section, "essential support person" means an individual who is:

(a) At least 18 years of age;

(b) Designated by the resident, or by the resident's representative, if the resident is determined to be incapacitated or otherwise legally incapacitated; and

(c) Necessary for the resident's emotional, mental, or physical well-being during situations that include, but are not limited to, circumstances involving compassionate care or end-of-life care, circumstances where visitation from a familiar person will assist with important continuity of care or the reduction of confusion and anxiety for residents with cognitive impairments, or other

circumstances where the presence of an essential support person will prevent or reduce significant emotional distress to the resident.

Sec. 21. RCW 70.129.010 and 2020 c 278 s 13 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) "Chemical restraint" means a psychopharmacologic drug that is used for discipline or convenience and not required to treat the resident's medical symptoms.

(2) "Department" means the department of state government responsible for licensing the provider in question.

(3) "Facility" means a long-term care facility.

(4) "Long-term care facility" means a facility that is licensed or required to be licensed under chapter 18.20, 70.97, 72.36, or 70.128 RCW.

(5) "Physical restraint" means a manual method, obstacle, or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that restricts freedom of movement or access to his or her body, is used for discipline or convenience, and not required to treat the resident's medical symptoms.

(6) "Reasonable accommodation" by a facility to the needs of a prospective or current resident has the meaning given to this term under the federal Americans with disabilities act of 1990, 42 U.S.C. Sec. 12101 et seq. and other applicable federal or state antidiscrimination laws and regulations.

(7) (~~"Representative" means a person appointed under RCW 7.70.065.~~

~~(8))~~ "Resident" means the individual receiving services in a long-term care facility, that resident's attorney-in-fact, guardian, or other (~~legal~~) representative acting within the scope of their authority.

(8) "Resident representative" means:

(a)(i) A court-appointed guardian or conservator of a resident, if any;

(ii) An individual otherwise authorized by state or federal law including, but not limited to, agents under power of attorney, representative payees, and other fiduciaries, to act on behalf of the resident in order to support the resident in decision making; access medical, social, or other personal information of the resident; manage financial matters; or receive notifications; or

(iii) If there is no individual who meets the criteria under (a)(i) or (ii) of this subsection, an individual chosen by the resident to act on behalf of the resident in order to support the resident in decision making; access medical, social, or other personal information of the resident; manage financial matters; or receive notifications.

(b) The term "resident representative" does not include any individual described in (a) of this subsection who is affiliated with any long-term care facility or nursing home where the resident resides, or its licensee or management company, unless the affiliated individual is a family member of the resident.

Sec. 22. RCW 70.129.020 and 1994 c 214 s 3 are each amended to read as follows:

The resident has a right to a dignified existence, self-determination, and communication with and access to persons and services inside and outside the

facility. A facility must protect and promote the rights of each resident and assist the resident which include:

(1) The resident has the right to exercise his or her rights as a resident of the facility and as a citizen or resident of the United States and the state of Washington.

(2) The resident has the right to be free of interference, coercion, discrimination, and reprisal from the facility in exercising his or her rights.

(3) In the case of a resident adjudged incompetent by a court of competent jurisdiction, the rights of the resident are exercised by the person appointed to act on the resident's behalf.

(4) In the case of a resident who has not been adjudged incompetent by a court of competent jurisdiction, a resident representative may exercise the resident's rights to the extent provided by law.

Sec. 23. RCW 70.129.030 and 2013 c 23 s 184 are each amended to read as follows:

(1) The facility must inform the resident both orally and in writing in a language that the resident understands of his or her rights and all rules and regulations governing resident conduct and responsibilities during the stay in the facility. The notification must be made prior to or upon admission. Receipt of the information must be acknowledged in writing.

(2) The resident to the extent provided by law or ((his or her legal)) resident representative to the extent provided by law, has the right:

(a) Upon an oral or written request, to access all records pertaining to himself or herself including clinical records within twenty-four hours; and

(b) After receipt of his or her records for inspection, to purchase at a cost not to exceed the community standard photocopies of the records or portions of them upon request and two working days' advance notice to the facility.

(3) The facility shall only admit or retain individuals whose needs it can safely and appropriately serve in the facility with appropriate available staff and through the provision of reasonable accommodations required by state or federal law. Except in cases of genuine emergency, the facility shall not admit an individual before obtaining a thorough assessment of the resident's needs and preferences. The assessment shall contain, unless unavailable despite the best efforts of the facility, the resident applicant, and other interested parties, the following minimum information: Recent medical history; necessary and contraindicated medications; a licensed medical or other health professional's diagnosis, unless the individual objects for religious reasons; significant known behaviors or symptoms that may cause concern or require special care; mental illness, except where protected by confidentiality laws; level of personal care needs; activities and service preferences; and preferences regarding other issues important to the resident applicant, such as food and daily routine.

(4) The facility must inform each resident in writing in a language the resident or ((his or her)) resident representative understands before admission, and at least once every twenty-four months thereafter of: (a) Services, items, and activities customarily available in the facility or arranged for by the facility as permitted by the facility's license; (b) charges for those services, items, and activities including charges for services, items, and activities not covered by the facility's per diem rate or applicable public benefit programs; and (c) the rules of facility operations required under RCW 70.129.140(2). Each resident and ((his

~~or her~~) resident representative must be informed in writing in advance of changes in the availability or the charges for services, items, or activities, or of changes in the facility's rules. Except in emergencies, thirty days' advance notice must be given prior to the change. However, for facilities licensed for six or fewer residents, if there has been a substantial and continuing change in the resident's condition necessitating substantially greater or lesser services, items, or activities, then the charges for those services, items, or activities may be changed upon fourteen days' advance written notice.

(5) The facility must furnish a written description of residents rights that includes:

(a) A description of the manner of protecting personal funds, under RCW 70.129.040;

(b) A posting of names, addresses, and telephone numbers of the state survey and certification agency, the state licensure office, the state ombuds program, and the protection and advocacy systems; and

(c) A statement that the resident may file a complaint with the appropriate state licensing agency concerning alleged resident abuse, neglect, and misappropriation of resident property in the facility.

(6) Notification of changes.

(a) A facility must immediately consult with the resident's physician, and if known, make reasonable efforts to notify the ~~((resident's legal))~~ resident representative ~~((or an interested family member))~~ to the extent provided by law when there is:

(i) An accident involving the resident which requires or has the potential for requiring physician intervention;

(ii) A significant change in the resident's physical, mental, or psychosocial status (i.e., a deterioration in health, mental, or psychosocial status in either life-threatening conditions or clinical complications).

(b) The facility must promptly notify the resident or ~~((the resident's))~~ resident representative ~~((shall make reasonable efforts to notify an interested family member, if known,))~~ when there is:

(i) A change in room or roommate assignment; or

(ii) A decision to transfer or discharge the resident from the facility.

(c) The facility must record and update the address ~~((and)),~~ phone number, and any other contact information of the ~~((resident's))~~ resident representative ~~((or interested family member)),~~ upon receipt of notice from them.

Sec. 24. RCW 70.129.040 and 2011 1st sp.s. c 3 s 301 are each amended to read as follows:

(1) The resident has the right to manage his or her financial affairs, and the facility may not require residents to deposit their personal funds with the facility.

(2) Upon written authorization of a resident, if the facility agrees to manage the resident's personal funds, the facility must hold, safeguard, manage, and account for the personal funds of the resident deposited with the facility as specified in this section.

(a) The facility must deposit a resident's personal funds in excess of one hundred dollars in an interest-bearing account or accounts that is separate from any of the facility's operating accounts, and that credits all interest earned on residents' funds to that account. In pooled accounts, there must be a separate accounting for each resident's share.

(b) The facility must maintain a resident's personal funds that do not exceed one hundred dollars in a noninterest-bearing account, interest-bearing account, or petty cash fund.

(3) The facility must establish and maintain a system that assures a full and complete and separate accounting of each resident's personal funds entrusted to the facility on the resident's behalf.

(a) The system must preclude any commingling of resident funds with facility funds or with the funds of any person other than another resident.

(b) The individual financial record must be available on request to the resident, or ~~((his or her legal))~~ resident representative to the extent provided by law.

(4) Upon the death of a resident with personal funds deposited with the facility, the facility must convey within thirty days the resident's funds, and a final accounting of those funds, to the individual or probate jurisdiction administering the resident's estate; but in the case of a resident who received long-term care services paid for by the state, the funds and accounting shall be sent to the state of Washington, department of social and health services, office of financial recovery. The department shall establish a release procedure for use for burial expenses.

(5) If any funds in excess of one hundred dollars are paid to an adult family home by the resident or ~~((a))~~ resident representative ~~((of the resident))~~, as a security deposit for performance of the resident's obligations, or as prepayment of charges beyond the first month's residency, the funds shall be deposited by the adult family home in an interest-bearing account that is separate from any of the home's operating accounts, and that credits all interest earned on the resident's funds to that account. In pooled accounts, there must be a separate accounting for each resident's share. The account or accounts shall be in a financial institution as defined by RCW ~~((30.22.041))~~ 30A.22.041, and the resident shall be notified in writing of the name, address, and location of the depository. The adult family home may not commingle resident funds from these accounts with the adult family home's funds or with the funds of any person other than another resident. The individual resident's account record shall be available upon request by the resident or ~~((the resident's))~~ resident representative to the extent provided by law.

(6) The adult family home shall provide the resident or ~~((the resident's))~~ resident representative full disclosure in writing, prior to the receipt of any funds for a deposit, security, prepaid charges, or any other fees or charges, specifying what the funds are paid for and the basis for retaining any portion of the funds if the resident dies, is hospitalized, or is transferred or discharged from the adult family home. The disclosure must be in a language that the resident or ~~((the resident's))~~ resident representative understands, and be acknowledged in writing by the resident or ~~((the resident's))~~ resident representative. The adult family home shall retain a copy of the disclosure and the acknowledgment. The adult family home may not retain funds for reasonable wear and tear by the resident or for any basis that would violate RCW 70.129.150.

(7) Funds paid by the resident or ~~((the resident's))~~ resident representative to the adult family home, which the adult family home in turn pays to a placement agency or person, shall be governed by the disclosure requirements of this section. If the resident then dies, is hospitalized, or is transferred or discharged

from the adult family home, and is entitled to any refund of funds under this section or RCW 70.129.150, the adult family home shall refund the funds to the resident or ~~((the resident's))~~ resident representative to the extent provided by law, within thirty days of the resident leaving the adult family home, and may not require the resident to obtain the refund from the placement agency or person.

(8) If, during the stay of the resident, the status of the adult family home licensee or ownership is changed or transferred to another, any funds in the resident's accounts affected by the change or transfer shall simultaneously be deposited in an equivalent account or accounts by the successor or new licensee or owner, who shall promptly notify the resident or ~~((the resident's))~~ resident representative to the extent provided by law, in writing of the name, address, and location of the new depository.

(9) Because it is a matter of great public importance to protect residents who need long-term care from deceptive disclosures and unfair retention of deposits, fees, or prepaid charges by adult family homes, a violation of this section or RCW 70.129.150 shall be construed for purposes of the consumer protection act, chapter 19.86 RCW, to constitute an unfair or deceptive act or practice or an unfair method of competition in the conduct of trade or commerce. The resident's claim to any funds paid under this section shall be prior to that of any creditor of the adult family home, its owner, or licensee, even if such funds are commingled.

Sec. 25. RCW 70.129.080 and 1994 c 214 s 9 are each amended to read as follows:

The resident has the right to privacy in communications, including the right to:

- (1) Send and promptly receive mail that is unopened;
- (2) Have access to stationery, postage, and writing implements at the resident's own expense; and
- (3) Have reasonable access within a reasonable time to the use of a telephone and other communication equipment where calls can be made without being overheard.

Sec. 26. RCW 70.129.090 and 2013 c 23 s 185 are each amended to read as follows:

(1) The resident has the right and the facility must not interfere with access to any resident by the following:

- (a) Any representative of the state;
- (b) The resident's individual physician;
- (c) The state long-term care ombuds as established under chapter 43.190 RCW;
- (d) The agency responsible for the protection and advocacy system for individuals with developmental disabilities as established under part C of the developmental disabilities assistance and bill of rights act;

(e) The agency responsible for the protection and advocacy system for individuals with mental illness as established under the protection and advocacy for mentally ill individuals act;

(f) Subject to reasonable restrictions to protect the rights of others and to the resident's right to deny or withdraw consent at any time, resident representative,

immediate family or other relatives of the resident, and others who are visiting with the consent of the resident;

(g) The agency responsible for the protection and advocacy system for individuals with disabilities as established under section 509 of the rehabilitation act of 1973, as amended, who are not served under the mandates of existing protection and advocacy systems created under federal law.

(2) The facility must provide reasonable access to a resident by ~~((his or her))~~ the resident representative or an entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time.

(3) The facility must allow representatives of the state ombuds to examine a resident's clinical records with the permission of the resident or ~~((the resident's legal))~~ resident representative to the extent provided by law, and consistent with state and federal law.

Sec. 27. RCW 70.129.110 and 2013 c 23 s 186 are each amended to read as follows:

(1) The facility must permit each resident to remain in the facility, and not transfer or discharge the resident from the facility unless:

(a) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the facility;

(b) The safety of individuals in the facility is endangered;

(c) The health of individuals in the facility would otherwise be endangered;

(d) The resident has failed to make the required payment for his or her stay;

or

(e) The facility ceases to operate.

(2) All long-term care facilities shall fully disclose to potential residents or ~~((their legal))~~ resident representatives the service capabilities of the facility prior to admission to the facility. If the care needs of the applicant who is medicaid eligible are in excess of the facility's service capabilities, the department shall identify other care settings or residential care options consistent with federal law.

(3) Before a long-term care facility transfers or discharges a resident, the facility must:

(a) First attempt through reasonable accommodations to avoid the transfer or discharge, unless agreed to by the resident;

(b) Notify the resident and resident representative ~~((and make a reasonable effort to notify, if known, an interested family member))~~ of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand;

(c) Record the reasons in the resident's record; and

(d) Include in the notice the items described in subsection (5) of this section.

(4)(a) Except when specified in this subsection, the notice of transfer or discharge required under subsection (3) of this section must be made by the facility at least thirty days before the resident is transferred or discharged.

(b) Notice may be made as soon as practicable before transfer or discharge when:

(i) The safety of individuals in the facility would be endangered;

(ii) The health of individuals in the facility would be endangered;

(iii) An immediate transfer or discharge is required by the resident's urgent medical needs; or

(iv) A resident has not resided in the facility for thirty days.

(5) The written notice specified in subsection (3) of this section must include the following:

(a) The reason for transfer or discharge;

(b) The effective date of transfer or discharge;

(c) The location to which the resident is transferred or discharged;

(d) The name, address, and telephone number of the state long-term care ombuds;

(e) For residents with developmental disabilities, the mailing address and telephone number of the agency responsible for the protection and advocacy of individuals with developmental disabilities established under part C of the developmental disabilities assistance and bill of rights act; and

(f) For residents with mental illness, the mailing address and telephone number of the agency responsible for the protection and advocacy of individuals with mental illness established under the protection and advocacy for mentally ill individuals act.

(6) A facility must provide sufficient preparation and orientation to residents to ensure safe and orderly transfer or discharge from the facility.

(7) A resident discharged in violation of this section has the right to be readmitted immediately upon the first availability of a gender-appropriate bed in the facility.

Sec. 28. RCW 70.129.150 and 1997 c 392 s 206 are each amended to read as follows:

(1) Prior to admission, all long-term care facilities or nursing facilities licensed under chapter 18.51 RCW that require payment of an admissions fee, deposit, or a minimum stay fee, by or on behalf of a person seeking admission to the long-term care facility or nursing facility, shall provide the resident, or (~~his or her~~) resident representative, full disclosure in writing in a language the resident or (~~his or her~~) resident representative understands, a statement of the amount of any admissions fees, deposits, prepaid charges, or minimum stay fees. The facility shall also disclose to the person, or (~~his or her~~) resident representative, the facility's advance notice or transfer requirements, prior to admission. In addition, the long-term care facility or nursing facility shall also fully disclose in writing prior to admission what portion of the deposits, admissions fees, prepaid charges, or minimum stay fees will be refunded to the resident or (~~his or her~~) resident representative to the extent provided by law, if the resident leaves the long-term care facility or nursing facility. Receipt of the disclosures required under this subsection must be acknowledged in writing. If the facility does not provide these disclosures, the deposits, admissions fees, prepaid charges, or minimum stay fees may not be kept by the facility. If a resident dies or is hospitalized or is transferred to another facility for more appropriate care and does not return to the original facility, the facility shall refund any deposit or charges already paid less the facility's per diem rate for the days the resident actually resided or reserved or retained a bed in the facility notwithstanding any minimum stay policy or discharge notice requirements, except that the facility may retain an additional amount to cover its reasonable, actual expenses incurred as a result of a private-pay resident's move, not to exceed five days' per diem charges, unless the resident has given advance notice in compliance with the admission agreement. All long-term care facilities or

nursing facilities covered under this section are required to refund any and all refunds due the resident or ~~((his or her))~~ resident representative to the extent provided by law, within thirty days from the resident's date of discharge from the facility. Nothing in this section applies to provisions in contracts negotiated between a nursing facility or long-term care facility and a certified health plan, health or disability insurer, health maintenance organization, managed care organization, or similar entities.

(2) Where a long-term care facility or nursing facility requires the execution of an admission contract by or on behalf of an individual seeking admission to the facility, the terms of the contract shall be consistent with the requirements of this section, and the terms of an admission contract by a long-term care facility shall be consistent with the requirements of this chapter.

Sec. 29. RCW 70.129.180 and 2009 c 489 s 1 are each amended to read as follows:

(1) A long-term care facility must fully disclose to residents the facility's policy on accepting medicaid as a payment source. The policy shall clearly state the circumstances under which the facility provides care for medicaid eligible residents and for residents who may later become eligible for medicaid.

(2) The policy under this section must be provided to residents orally and in writing prior to admission, in a language that the resident or ~~((the resident's))~~ resident representative understands. The written policy must be in type font no smaller than fourteen point and written on a page that is separate from other documents. The policy must be signed and dated by the resident or ~~((the resident's))~~ resident representative to the extent provided by law, if the resident lacks capacity. The facility must retain a copy of the disclosure. Current residents must receive a copy of the policy consistent with this section by July 26, 2009.

NEW SECTION. Sec. 30. A new section is added to chapter 70.01 RCW to read as follows:

(1) The department of health and the department of social and health services shall develop a report and guidelines on epidemic disease preparedness and response for long-term care facilities. In developing the report and guidelines, the department of health and the department of social and health services shall consult with interested stakeholders, including but not limited to:

- (a) Local health jurisdictions;
- (b) Advocates for consumers of long-term care;
- (c) Associations representing long-term care facility providers; and
- (d) The office of the state long-term care ombuds.

(2) The report must identify best practices and lessons learned about containment and mitigation strategies for controlling the spread of the infectious agent. At a minimum, the report must consider:

- (a) Visitation policies that balance the psychosocial and physical health of residents;
- (b) Timely and adequate access to personal protective equipment and other infection control supplies so that employees in long-term care facilities are prioritized for distribution in the event of supply shortages;
- (c) Admission and discharge policies and standards; and
- (d) Rapid and accurate testing to identify infectious outbreaks for:

- (i) Resident cohorting and treatment;
- (ii) Contact tracing purposes; and
- (iii) Protecting the health and well-being of residents and employees.

(3) In developing the report, the department of health and the department of social and health services shall work with the stakeholders identified in subsection (1) of this section to:

- (a) Ensure that any corresponding federal rules and guidelines take precedence over the state guidelines;
- (b) Avoid conflict between federal requirements and state guidelines;
- (c) Develop a timeline for implementing the guidelines and a process for communicating the guidelines to long-term care facilities, local health jurisdictions, and other interested stakeholders in a clear and timely manner;
- (d) Consider options for targeting available resources towards infection control when epidemic disease outbreaks occur in long-term care facilities;
- (e) Establish methods for ensuring that epidemic preparedness and response guidelines are consistently applied across all local health jurisdictions and long-term care facilities in Washington state. This may include recommendations to the legislature for any needed statutory changes;
- (f) Develop a process for maintaining and updating epidemic preparedness and response guidelines as necessary; and
- (g) Ensure appropriate considerations for each unique provider type.

(4) By December 1, 2021, the department of health and the department of social and health services shall provide a draft report and guidelines on COVID-19 as outlined in subsection (2) of this section to the health care committees of the legislature.

(5) By July 1, 2022, the department of health and the department of social and health services shall finalize the report and guidelines on COVID-19 and provide the report to the health care committees of the legislature.

(6) Beginning December 1, 2022, and annually thereafter, the department of health and the department of social and health services shall:

- (a) Review the report and any corresponding guidelines;
- (b) Make any necessary changes regarding COVID-19 and add information about any emerging epidemic of public health concern; and
- (c) Provide the updated report and guidelines to the health care committees of the legislature. When providing the updated guidelines to the legislature, the department of health and the department of social and health services may include recommendations to the legislature for any needed statutory changes.

(7) For purposes of this section, "long-term care facilities" includes:

- (a) Licensed skilled nursing facilities, assisted living facilities, adult family homes, and enhanced services facilities;
- (b) Certified community residential services and supports; and
- (c) Registered continuing care retirement communities.

Passed by the House April 20, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 160

[Substitute House Bill 1259]

OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES—AUDITS AND
REVIEWS

AN ACT Relating to expanding public contracting opportunities for women and minority business enterprises by increasing the regulatory oversight and accountability of the office of minority and women's business enterprises; amending RCW 39.19.020, 39.19.060, 39.19.080, 39.19.090, 39.19.200, and 39.19.250; adding a new section to chapter 39.19 RCW; and repealing RCW 39.19.100 and 39.19.110.

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

Sec. 1. RCW 39.19.020 and 2019 c 434 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) "Advisory committee" means the advisory committee on minority and women's business enterprises.

(2) "Broker" means a person that provides a bona fide service, such as professional, technical, consultant, brokerage, or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials, or supplies required for performance of a contract.

(3) "Contractor" means an individual or entity granted state certification and awarded either a direct contract with an agency or an indirect contract as a subcontractor to perform a service or provide goods.

(4) "Debar" means to prohibit a contractor, individual, or other entity from submitting a bid, having a bid considered, or entering into a state contract during a specified period of time as set forth in a debarment order.

~~(5)~~ (5) "Director" means the director of the office of minority and women's business enterprises.

~~((5))~~ (6) "Educational institutions" means the state universities, the regional universities, The Evergreen State College, and the community colleges.

~~((6))~~ (7) "Goals" means annual overall agency goals, expressed as a percentage of dollar volume, for participation by minority and women-owned and controlled businesses and shall not be construed as a minimum goal for any particular contract or for any particular geographical area. It is the intent of this chapter that such overall agency goals shall be achievable and shall be met on a contract-by-contract or class-of-contract basis.

~~((7))~~ (8) "Goods and/or services" includes professional services and all other goods and services.

~~((8))~~ (9) "Office" means the office of minority and women's business enterprises.

~~((9))~~ (10) "Person" includes one or more individuals, partnerships, associations, organizations, corporations, cooperatives, legal representatives, trustees and receivers, or any group of persons.

~~((10))~~ (11) "Procurement" means the purchase, lease, or rental of any goods or services.

~~((11))~~ (12) "Public works" means all work, construction, highway and ferry construction, alteration, repair, or improvement other than ordinary maintenance, which a state agency or educational institution is authorized or required by law to undertake.

~~((42))~~ (13) "State agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions.

Sec. 2. RCW 39.19.060 and 2019 c 434 s 3 are each amended to read as follows:

(1) Each state agency and educational institution shall comply with the annual goals established for that agency or institution under this chapter for public works and procuring goods or services. This chapter applies to all public works and procurement by state agencies and educational institutions, including all contracts and other procurement under chapters 28B.10, 39.04, 39.26, 43.19, and 47.28 RCW.

(2) Each state agency shall adopt a plan, developed in consultation with the director and the advisory committee, to ensure that minority and women-owned businesses are afforded the maximum practicable opportunity to directly and meaningfully participate in the execution of public contracts for public works and goods and services. The plan shall include specific measures the agency will undertake to increase the participation of certified minority and women-owned businesses.

(3) Of all state agencies and educational institutions, the office must annually identify those: (a) In the lowest quintile of utilization of minority and women-owned contractors as a percentage of all contracts issued by the agency; (b) in the lowest quintile of the dollar value awarded to minority and women-owned contractors as a percentage of the dollar value of all contracts issued by the agency; and (c) that are performing significantly below their established goals, as determined by the office. The office must meet with each identified agency to review its plan and identify available tools and actions for increasing participation.

(4) The office shall annually notify the governor, the state auditor, and the joint legislative audit and review committee of all agencies and educational institutions not in compliance with this chapter.

Sec. 3. RCW 39.19.080 and 1987 c 328 s 5 are each amended to read as follows:

~~((4))~~ A person, firm, corporation, business, union, or other organization shall not:

~~((a))~~ (1) Prevent or interfere with a contractor's or subcontractor's compliance with this chapter, or any rule adopted under this chapter;

~~((b))~~ (2) Submit false or fraudulent information to the state concerning compliance with this chapter or any such rule;

~~((c))~~ (3) Fraudulently obtain, retain, attempt to obtain or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or retain certification as a minority or women's business enterprise for the purpose of this chapter;

~~((d))~~ (4) Knowingly make a false statement, whether by affidavit, verified statement, report, or other representation, to a state official or employee for the purpose of influencing the certification or denial of certification of any entity as a minority or women's business enterprise;

~~((e))~~ (5) Knowingly obstruct, impede, or attempt to obstruct or impede any state official or employee who is investigating the qualification of a business

entity that has requested certification as a minority or women's business enterprise;

~~((#))~~ (6) Fraudulently obtain, attempt to obtain, or aid another person in fraudulently obtaining or attempting to obtain public moneys to which the person is not entitled under this chapter; or

~~((#))~~ (7) Knowingly make false statements that any entity is or is not certified as a minority or women's business enterprise for purposes of obtaining a contract governed by this chapter.

~~((2) Any person or entity violating this chapter or any rule adopted under this chapter shall be subject to the penalties in RCW 39.19.090. Nothing in this section prevents the state agency or educational institution from pursuing such procedures or sanctions as are otherwise provided by statute, rule, or contract provision.))~~

Sec. 4. RCW 39.19.090 and 1987 c 328 s 6 are each amended to read as follows:

~~((#))~~ (1)(a) Except as provided in (b) of this subsection, if a person, firm, corporation, or business does not comply with any provision of this chapter or with a contract requirement established under this chapter, the state may ~~((withhold payment, debar the contractor, suspend, or terminate the contract and subject))~~ impose one or more of the following penalties: Withholding payment, decertifying the contractor, debarring the contractor, suspending or terminating the contract, or subjecting the contractor to civil penalties of up to ~~((ten))~~ 10 percent of the amount of the contract or up to ~~((five thousand dollars))~~ \$5,000 for each violation. ((The office shall adopt, by rule, criteria for the imposition of penalties under this section. Willful))

(b) If a person, firm, corporation, or business commits any of the activities prohibited in RCW 39.19.080, the state must impose one or more of the following penalties: Withholding payment, decertifying the contractor, debarring the contractor for a period between one and three years, terminating the contract, or subjecting the contractor to civil penalties of between two and 10 percent of the amount of the contract or between \$1 and \$5,000 for each violation.

(c) In addition to any other penalties imposed, willful repeated violations, exceeding a single violation, ((may)) must disqualify the contractor from further participation in state contracts for a period of ((up to)) three years. A willful violation includes a conscious or deliberate false statement, misrepresentation, omission, or concealment of a material fact, with the specific intent of obtaining, continuing, or increasing benefits under this chapter.

(2) An apparent low-bidder must be in compliance with the contract provisions required under this chapter as a condition precedent to the granting of a notice of award by any state agency or educational institution.

(3) The office shall follow administrative procedures under chapter 34.05 RCW in determining a violation and imposing penalties under this chapter. The office shall adopt by rule criteria for the imposition of penalties under this section. The rule may incorporate the debarment process authorized for the department of enterprise services in RCW 39.26.200.

(4)(a) An audit and review unit is established within the office for the purpose of detecting and investigating fraud and violations of this chapter. The office must employ qualified personnel for the unit.

(b) For the purpose of any investigation or proceeding under this chapter, the director or the director's designee may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records that the director or the director's designee deems relevant or material to the inquiry.

(c) Subpoenas issued under this section may be enforced under RCW 34.05.588.

(d) The audit and review unit must annually:

(i) Conduct a site review of a minimum of three percent of persons, firms, corporations, or businesses awarded a contract under this chapter;

(ii) Submit a response for all complaints for investigation made by an external agency to the agency submitting the complaint;

(iii) Develop and implement a process for prioritizing and conducting thorough investigations of persons, firms, corporations, or businesses identified by an external complaint and determined to be the highest priority for the agency; and

(iv) Develop and implement a process for prioritizing and conducting thorough investigations of persons, firms, corporations, or businesses internally identified and determined to be the highest priority for the agency.

(5) The procedures and sanctions in this section are not exclusive; nothing in this section prevents the state agency or educational institution administering the contracts from pursuing such procedures or sanctions as are otherwise provided by statute, rule, or contract provision.

NEW SECTION. Sec. 5. A new section is added to chapter 39.19 RCW to read as follows:

(1) The director or director's designee may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed documents, records, or evidence are located, or in Thurston county. The application must:

(a) State that an order is sought under this section;

(b) Adequately specify the documents, records, evidence, or testimony; and

(c) Include a declaration made under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the office's authority and that the subpoenaed documents, records, evidence, or testimony are reasonably related to an investigation within the office's authority.

(2) When an application under this section is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the documents, records, evidence, or testimony.

(3) The director or director's designee may seek approval and a court may issue an order under this section without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation. An application for court approval is subject to the fee and process set forth in RCW 36.18.012(3).

Sec. 6. RCW 39.19.200 and 1993 c 195 s 1 are each amended to read as follows:

The minority and women's business enterprises account is created in the custody of the state treasurer. All receipts from RCW 39.19.210, 39.19.220, and 39.19.230 and civil penalties imposed under RCW 39.19.090 shall be deposited in the account. Expenditures from the account may be used only for the purposes defraying all or part of the costs of the office in administering this chapter. Only the director or the director's designee may authorize expenditures from the account. Moneys in the account may be spent only after appropriation.

Sec. 7. RCW 39.19.250 and 2019 c 434 s 4 are each amended to read as follows:

(1) For the purpose of annual reporting on progress required by ~~((section 4 of this act))~~ this chapter, each state agency and educational institution shall submit data to the office and the office of minority and women's business enterprises on the participation by qualified minority and women-owned and controlled businesses in the agency's or institution's contracts and other related information requested by the director. The director of the office of minority and women's business enterprises shall determine the content and format of the data and the reporting schedule, which must be at least annually.

(2) The office must develop and maintain a list of contact people at each state agency and educational institution who are able to present to hearings of the appropriate committees of the legislature its progress in carrying out the purposes of chapter 39.19 RCW.

(3) The office must submit a report aggregating the data received from each state agency and educational institution, and the information identified and actions taken under RCW 39.19.060(3) and 39.19.090(4), to the legislature and the governor.

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

(1) RCW 39.19.100 (Enforcement by attorney general—Injunctive relief) and 1987 c 328 s 12; and

(2) RCW 39.19.110 (Enforcement by attorney general—Investigative powers) and 1987 c 328 s 13.

Passed by the House March 3, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 161

[Substitute House Bill 1269]

MOTOR VEHICLE TRANSPORTERS—LICENSE PLATES

AN ACT Relating to motor vehicle transporter license plates; amending RCW 46.76.030, 46.76.040, and 46.76.050; reenacting and amending RCW 46.76.060 and 46.76.065; and providing an effective date.

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

Sec. 1. RCW 46.76.030 and 2018 c 135 s 3 are each amended to read as follows:

Upon receiving an application for transporter's license the director, if satisfied that the applicant is entitled thereto, shall issue a proper certificate of

license registration and ~~((a))~~ up to three distinctive ~~((set))~~ sets of license plates or an indicator tab pursuant to RCW 46.55.065 and shall transmit the fees obtained therefor with a proper identifying report to the state treasurer, who shall deposit such fees in the motor vehicle fund. The certificate of license registration and license plates or indicator tab issued by the director shall authorize the holder of the license to drive or tow any motor vehicle or trailers upon the public highways of Washington state. The director, if satisfied that the applicant has sufficient business need, may issue more than three, but no more than 10, sets of license plates to meet the business need of the applicant. Registered tow truck operators licensed under chapter 46.55 RCW are not subject to this limit, with respect to indicator tabs.

Sec. 2. RCW 46.76.040 and 2019 c 44 s 7 are each amended to read as follows:

The fee for an original transporter's license is ~~((twenty five dollars))~~ \$150. Transporter license number plates bearing an appropriate symbol and serial number or an indicator tab pursuant to RCW 46.55.065 must be attached to all vehicles being delivered or evaluated in the conduct of the business licensed under this chapter. The plates ~~((or indicator tab))~~ may be obtained for a fee of ~~((two dollars))~~ \$50 for each set. Indicator tabs may be obtained by a registered tow truck operator licensed under chapter 46.55 RCW for a fee of \$2 per tab.

Sec. 3. RCW 46.76.050 and 1985 c 109 s 3 are each amended to read as follows:

A transporter's license expires on the date assigned by the director, and may be renewed by filing a proper application and paying an annual fee of ~~((fifteen dollars))~~ \$100.

Sec. 4. RCW 46.76.060 and 2018 c 135 s 4 and 2018 c 16 s 3 are each reenacted and amended to read as follows:

Transporter's license plates or indicator tabs pursuant to RCW 46.55.065 must be conspicuously displayed on all vehicles being delivered by the driveway or towaway methods or being driven on the public roads of the state for the purpose of repair evaluation. These plates or indicator tabs must not be loaned to or used by any person other than the holder of the license or his or her employees. If a transporter license plate or indicator tab is lost, stolen, or damaged, the holder of the license must report the event to the department within 10 days of discovering that the transporter license plate or indicator tab has been lost, stolen, or damaged.

Sec. 5. RCW 46.76.065 and 2018 c 135 s 5 and 2018 c 16 s 4 are each reenacted and amended to read as follows:

The following conduct shall be sufficient grounds pursuant to RCW 34.05.422 for the director or a designee to deny, suspend, or revoke the license of a motor vehicle transporter:

(1) Using transporter plates or indicator tabs pursuant to RCW 46.55.065 for driveway or towaway of any vehicle owned by such transporter;

(2) Knowingly, as that term is defined in RCW 9A.08.010(1)(b), having possession of a stolen vehicle or a vehicle with a defaced, missing, or obliterated manufacturer's identification serial number;

(3) Loaning transporter plates or indicator tabs;

(4) Using transporter plates or indicator tabs for any purpose other than as provided under RCW 46.76.010 or 46.76.015; ~~((or))~~

(5) Violation of provisions of this chapter or of rules and regulations adopted relating to enforcement and proper operation of this chapter; or

(6) Using transporter plates on public highways located outside of Washington state.

NEW SECTION. Sec. 6. This act takes effect January 1, 2022.

Passed by the House March 2, 2021.

Passed by the Senate April 15, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 162

[Engrossed Second Substitute House Bill 1272]

DEPARTMENT OF HEALTH—HOSPITALS—DATA REPORTING

AN ACT Relating to health system transparency; amending RCW 43.70.052, 70.01.040, and 70.41.470; adding a new section to chapter 43.70 RCW; adding a new section to chapter 70.41 RCW; and creating new sections.

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

Sec. 1. RCW 43.70.052 and 2014 c 220 s 2 are each amended to read as follows:

(1)(a) To promote the public interest consistent with the purposes of chapter 492, Laws of 1993 as amended by chapter 267, Laws of 1995, the department shall ~~((continue to))~~ require hospitals to submit hospital financial and patient discharge information, including any applicable information reported pursuant to section 2 of this act, which shall be collected, maintained, analyzed, and disseminated by the department. The department shall, if deemed cost-effective and efficient, contract with a private entity for any or all parts of data collection. Data elements shall be reported in conformance with a uniform reporting system established by the department. This includes data elements identifying each hospital's revenues, expenses, contractual allowances, charity care, bad debt, other income, total units of inpatient and outpatient services, and other financial and employee compensation information reasonably necessary to fulfill the purposes of this section.

(b) Data elements relating to use of hospital services by patients shall be the same as those currently compiled by hospitals through inpatient discharge abstracts. The department shall encourage and permit reporting by electronic transmission or hard copy as is practical and economical to reporters.

(c) By January 1, 2023, the department must revise the uniform reporting system to further delineate hospital expenses reported in the other direct expense category in the statement of revenue and expense. The department must include the following additional categories of expenses within the other direct expenses category:

(i) Blood supplies;

(ii) Contract staffing;

(iii) Information technology, including licenses and maintenance;

(iv) Insurance and professional liability;

- (v) Laundry services;
- (vi) Legal, audit, and tax professional services;
- (vii) Purchased laboratory services;
- (viii) Repairs and maintenance;
- (ix) Shared services or system office allocation;
- (x) Staff recruitment;
- (xi) Training costs;
- (xii) Taxes;
- (xiii) Utilities; and
- (xiv) Other noncategorized expenses.

(d) The department must revise the uniform reporting system to further delineate hospital revenues reported in the other operating revenue category in the statement of revenue and expense. The department must include the following additional categories of revenues within the other operating revenues category:

- (i) Donations;
- (ii) Grants;
- (iii) Joint venture revenue;
- (iv) Local taxes;
- (v) Outpatient pharmacy;
- (vi) Parking;
- (vii) Quality incentive payments;
- (viii) Reference laboratories;
- (ix) Rental income;
- (x) Retail cafeteria; and
- (xi) Other noncategorized revenues.

(e)(i) A hospital, other than a hospital designated by medicare as a critical access hospital or sole community hospital, must report line items and amounts for any expenses or revenues in the other noncategorized expenses category in (c)(xiv) of this subsection or the other noncategorized revenues category in (d)(xi) of this subsection that either have a value: (A) Of \$1,000,000 or more; or (B) representing one percent or more of the total expenses or total revenues; or

(ii) A hospital designated by medicare as a critical access hospital or sole community hospital must report line items and amounts for any expenses or revenues in the other noncategorized expenses category in (c)(xiv) of this subsection or the other noncategorized revenues category in (d)(xi) of this subsection that represent the greater of: (A) \$1,000,000; or (B) one percent or more of the total expenses or total revenues.

(f) A hospital must report any money, including loans, received by the hospital or a health system to which it belongs from a federal, state, or local government entity in response to a national or state-declared emergency, including a pandemic. Hospitals must report this information as it relates to federal, state, or local money received after January 1, 2020, in association with the COVID-19 pandemic. The department shall provide guidance on reporting pursuant to this subsection.

(2) In identifying financial reporting requirements, the department may require both annual reports and condensed quarterly reports from hospitals, so as to achieve both accuracy and timeliness in reporting, but shall craft such requirements with due regard of the data reporting burdens of hospitals.

(3)(a) Beginning with compensation information for 2012, unless a hospital is operated on a for-profit basis, the department shall require a hospital licensed under chapter 70.41 RCW to annually submit employee compensation information. To satisfy employee compensation reporting requirements to the department, a hospital shall submit information as directed in (a)(i) or (ii) of this subsection. A hospital may determine whether to report under (a)(i) or (ii) of this subsection for purposes of reporting.

(i) Within one hundred thirty-five days following the end of each hospital's fiscal year, a nonprofit hospital shall file the appropriate schedule of the federal internal revenue service form 990 that identifies the employee compensation information with the department. If the lead administrator responsible for the hospital or the lead administrator's compensation is not identified on the schedule of form 990 that identifies the employee compensation information, the hospital shall also submit the compensation information for the lead administrator as directed by the department's form required in (b) of this subsection.

(ii) Within one hundred thirty-five days following the end of each hospital's calendar year, a hospital shall submit the names and compensation of the five highest compensated employees of the hospital who do not have any direct patient responsibilities. Compensation information shall be reported on a calendar year basis for the calendar year immediately preceding the reporting date. If those five highest compensated employees do not include the lead administrator for the hospital, compensation information for the lead administrator shall also be submitted. Compensation information shall include base compensation, bonus and incentive compensation, other payments that qualify as reportable compensation, retirement and other deferred compensation, and nontaxable benefits.

(b) To satisfy the reporting requirements of this subsection (3), the department shall create a form and make it available no later than August 1, 2012. To the greatest extent possible, the form shall follow the format and reporting requirements of the portion of the internal revenue service form 990 schedule relating to compensation information. If the internal revenue service substantially revises its schedule, the department shall update its form.

(4) The health care data collected, maintained, and studied by the department shall only be available for retrieval in original or processed form to public and private requestors pursuant to subsection ((7)) (9) of this section and shall be available within a reasonable period of time after the date of request. The cost of retrieving data for state officials and agencies shall be funded through the state general appropriation. The cost of retrieving data for individuals and organizations engaged in research or private use of data or studies shall be funded by a fee schedule developed by the department that reflects the direct cost of retrieving the data or study in the requested form.

(5) The department shall, in consultation and collaboration with ~~((the~~ ~~federally recognized))~~ tribes, urban or other Indian health service organizations, and the federal area Indian health service, design, develop, and maintain an American Indian-specific health data, statistics information system.

(6)(a) Except as provided in subsection (c) of this section, beginning January 1, 2023, patient discharge information reported by hospitals to the department must identify patients by race, ethnicity, gender identity, sexual

orientation, preferred language, any disability, and zip code of primary residence. The department shall provide guidance on reporting pursuant to this subsection. When requesting demographic information under this subsection, a hospital must inform patients that providing the information is voluntary. If a hospital fails to report demographic information under this subsection because a patient refused to provide the information, the department may not take any action against the hospital for failure to comply with reporting requirements or other licensing standards on that basis.

(b) The department must develop a waiver process for the requirements of (a) of this subsection for a hospital that is certified by the centers for medicare and medicaid services as a critical access hospital, is certified by the centers of medicare and medicaid services as a sole community hospital, or qualifies as a medicare dependent hospital due to economic hardship, technological limitations that are not reasonably in the control of the hospital, or other exceptional circumstance demonstrated by the hospital. The waiver must be limited to one year or less, or for any other specified time frame set by the department. Hospitals may apply for waiver extensions.

(c) Subject to funding appropriated specifically for this purpose, the department shall establish a process no later than October 1, 2022, for any hospital that is certified by the centers for medicare and medicaid services as a critical access hospital, is certified by the centers for medicare and medicaid services as a sole community hospital, or qualifies as a medicare dependent hospital, to apply for a grant to support updating the hospital's electronic health records system to comply with the requirements of this subsection, subject to the following:

(i) A hospital owned or operated by a health system that owns or operates two or more hospitals is not eligible to apply for a grant under this subsection;

(ii) In considering a hospital application, the department may consider information about the hospital's need for financial support to alter the hospital's electronic health records system, including, but not limited to, demonstrated costs necessary to update the hospital's current electronic health record system to comply with the requirements in this section and evidence of need for financial assistance. The department may provide grant amounts of varying sizes depending on the need of the applicant hospital;

(iii) A hospital that receives a grant under this section must update the hospital's electronic health records system to comply with the requirements of this section before the hospital may make other changes to its electronic health records system, except for changes that are required for security, compliance, or privacy purposes; and

(iv) A hospital that receives a grant under this section must comply with subsection (a) of this section no later than July 1, 2023.

(d) The department shall adopt rules to implement this subsection (6) no later than July 1, 2022.

(7) Beginning January 1, 2023, each hospital must report to the department, on a quarterly basis, the number of submitted and completed charity care applications that the hospital received in the prior quarter and the number of charity care applications approved in the prior quarter pursuant to the hospital's charity care policy, consistent with chapter 70.170 RCW. The department shall

develop a standard form for hospitals to use in submitting information pursuant to this subsection.

(8) All persons subject to the data collection requirements of this section shall comply with departmental requirements established by rule in the acquisition of data.

~~((7))~~ (9) The department must maintain the confidentiality of patient discharge data it collects under subsections (1) and (6) of this section. Patient discharge data that includes direct and indirect identifiers is not subject to public inspection and the department may only release such data as allowed for in this section. Any agency that receives patient discharge data under (a) or (b) of this subsection must also maintain the confidentiality of the data and may not release the data except as consistent with subsection ~~((8))~~ (10)(b) of this section. The department may release the data as follows:

(a) Data that includes direct and indirect patient identifiers, as specifically defined in rule, may be released to:

(i) Federal, state, and local government agencies upon receipt of a signed data use agreement with the department; and

(ii) Researchers with approval of the Washington state institutional review board upon receipt of a signed confidentiality agreement with the department.

(b) Data that does not contain direct patient identifiers but may contain indirect patient identifiers may be released to agencies, researchers, and other persons upon receipt of a signed data use agreement with the department.

(c) Data that does not contain direct or indirect patient identifiers may be released on request.

~~((8))~~ (10) Recipients of data under subsection ~~((7))~~ (9)(a) and (b) of this section must agree in a written data use agreement, at a minimum, to:

(a) Take steps to protect direct and indirect patient identifying information as described in the data use agreement; and

(b) Not redisclose the data except as authorized in their data use agreement consistent with the purpose of the agreement.

~~((9))~~ (11) Recipients of data under subsection ~~((7))~~ (9)(b) and (c) of this section must not attempt to determine the identity of persons whose information is included in the data set or use the data in any manner that identifies individuals or their families.

~~((10))~~ (12) For the purposes of this section:

(a) "Direct patient identifier" means information that identifies a patient; and

(b) "Indirect patient identifier" means information that may identify a patient when combined with other information.

~~((11))~~ (13) The department must adopt rules necessary to carry out its responsibilities under this section. The department must consider national standards when adopting rules.

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

(1)(a) Beginning July 1, 2022, for a health system operating a hospital licensed under chapter 70.41 RCW, the health system must annually submit to the department a consolidated annual income statement and balance sheet, including hospitals, ambulatory surgical facilities, health clinics, urgent care clinics, physician groups, health-related laboratories, long-term care facilities,

home health agencies, dialysis facilities, ambulance services, behavioral health settings, and virtual care entities that are operated in Washington.

(b) The state auditor's office shall provide the department with audited financial statements for all hospitals owned or operated by a public hospital district under chapter 70.44 RCW. Public hospital districts are not required to submit additional information to the department under this subsection.

(2) The department must make information submitted under this section available in the same manner as hospital financial data.

NEW SECTION. Sec. 3. A new section is added to chapter 70.41 RCW to read as follows:

The department shall contract with the University of Washington school of nursing to lead an interdisciplinary study to analyze the impact of the number, type, education, training, and experience of acute care hospital staffing personnel on patient mortality and patient outcomes utilizing scientifically sound research methods most effective for all involved stakeholders. The University of Washington school of nursing must work in collaboration with the other schools in the University of Washington health sciences administration. The study should control for other contributing factors, including but not limited to access to equipment, patients' underlying conditions and diagnoses, patients' demographics information, the trauma level designation of the hospital, transfers from other hospitals, and external factors impacting hospital volumes. The study must be completed by September 1, 2022, and the department shall submit the study to the appropriate committees of the legislature by October 1, 2022.

Sec. 4. RCW 70.01.040 and 2012 c 184 s 1 are each amended to read as follows:

(1) Prior to the delivery of nonemergency services, a provider-based clinic that charges a facility fee shall provide a notice to any patient that the clinic is licensed as part of the hospital and the patient may receive a separate charge or billing for the facility component, which may result in a higher out-of-pocket expense.

(2) Each health care facility must post prominently in locations easily accessible to and visible by patients, including its website, a statement that the provider-based clinic is licensed as part of the hospital and the patient may receive a separate charge or billing for the facility, which may result in a higher out-of-pocket expense.

(3) Nothing in this section applies to laboratory services, imaging services, or other ancillary health services not provided by staff employed by the health care facility.

(4) As part of the year-end financial reports submitted to the department of health pursuant to RCW 43.70.052, all hospitals with provider-based clinics that bill a separate facility fee shall report:

(a) The number of provider-based clinics owned or operated by the hospital that charge or bill a separate facility fee;

(b) The number of patient visits at each provider-based clinic for which a facility fee was charged or billed for the year;

(c) The revenue received by the hospital for the year by means of facility fees at each provider-based clinic; and

(d) The range of allowable facility fees paid by public or private payers at each provider-based clinic.

(5) For the purposes of this section:

(a) "Facility fee" means any separate charge or billing by a provider-based clinic in addition to a professional fee for physicians' services that is intended to cover building, electronic medical records systems, billing, and other administrative and operational expenses.

(b) "Provider-based clinic" means the site of an off-campus clinic or provider office (~~located at least two hundred fifty yards from the main hospital buildings or as determined by the centers for medicare and medicaid services,~~) that is owned by a hospital licensed under chapter 70.41 RCW or a health system that operates one or more hospitals licensed under chapter 70.41 RCW, is licensed as part of the hospital, and is primarily engaged in providing diagnostic and therapeutic care including medical history, physical examinations, assessment of health status, and treatment monitoring. This does not include clinics exclusively designed for and providing laboratory, X-ray, testing, therapy, pharmacy, or educational services and does not include facilities designated as rural health clinics.

Sec. 5. RCW 70.41.470 and 2012 c 103 s 1 are each amended to read as follows:

(1) As of January 1, 2013, each hospital that is recognized by the internal revenue service as a 501(c)(3) nonprofit entity must make its federally required community health needs assessment widely available to the public and submit it to the department within fifteen days of submission to the internal revenue service. Following completion of the initial community health needs assessment, each hospital in accordance with the internal revenue service(;) shall complete and make widely available to the public and submit to the department an assessment once every three years. The department must post the information submitted to it pursuant to this subsection on its website.

(2)(a) Unless contained in the community health needs assessment under subsection (1) of this section, a hospital subject to the requirements under subsection (1) of this section shall make public and submit to the department a description of the community served by the hospital, including both a geographic description and a description of the general population served by the hospital; and demographic information such as leading causes of death, levels of chronic illness, and descriptions of the medically underserved, low-income, and minority, or chronically ill populations in the community.

(b)(i) Beginning July 1, 2022, a hospital, other than a hospital designated by medicare as a critical access hospital or sole community hospital, that is subject to the requirements under subsection (1) of this section must annually submit to the department an addendum which details information about activities identified as community health improvement services with a cost of \$5,000 or more. The addendum must include the type of activity, the method in which the activity was delivered, how the activity relates to an identified community need in the community health needs assessment, the target population for the activity, strategies to reach the target population, identified outcome metrics, the cost to the hospital to provide the activity, the methodology used to calculate the hospital's costs, and the number of people served by the activity. If a community

health improvement service is administered by an entity other than the hospital, the other entity must be identified in the addendum.

(ii) Beginning July 1, 2022, a hospital designated by medicare as a critical access hospital or sole community hospital that is subject to the requirements under subsection (1) of this section must annually submit to the department an addendum which details information about the 10 highest cost activities identified as community health improvement services. The addendum must include the type of activity, the method in which the activity was delivered, how the activity relates to an identified community need in the community health needs assessment, the target population for the activity, strategies to reach the target population, identified outcome metrics, the cost to the hospital to provide the activity, the methodology used to calculate the hospital's costs, and the number of people served by the activity. If a community health improvement service is administered by an entity other than the hospital, the other entity must be identified in the addendum.

(iii) The department shall require the reporting of demographic information about participant race, ethnicity, any disability, gender identity, preferred language, and zip code of primary residency. The department, in consultation with interested entities, may revise the required demographic information according to an established six-year review cycle about participant race, ethnicity, disabilities, gender identity, preferred language, and zip code of primary residence that must be reported under (b)(i) and (ii) of this subsection (2). At a minimum, the department's consultation process shall include community organizations that provide community health improvement services, communities impacted by health inequities, health care workers, hospitals, and the governor's interagency coordinating council on health disparities. The department shall establish a six-year cycle for the review of the information requested under this subsection (2)(b)(iii).

(iv) The department shall provide guidance on participant data collection and the reporting requirements under this subsection (2)(b). The guidance shall include a standard form for the reporting of information under this subsection (2)(b). The standard form must allow for the reporting of community health improvement services that are repeated within a reporting period to be combined within the addendum as a single project with the number of instances of the services listed. The department must develop the guidelines in consultation with interested entities, including an association representing hospitals in Washington, labor unions representing workers who work in hospital settings, and community health board associations. The department must post the information submitted to it pursuant to this subsection (2)(b) on its website.

(3)(a) Each hospital subject to the requirements of subsection (1) of this section shall make widely available to the public a community benefit implementation strategy within one year of completing its community health needs assessment. In developing the implementation strategy, hospitals shall consult with community-based organizations and stakeholders, and local public health jurisdictions, as well as any additional consultations the hospital decides to undertake. Unless contained in the implementation strategy under this subsection (3)(a), the hospital must provide a brief explanation for not accepting recommendations for community benefit proposals identified in the assessment

through the stakeholder consultation process, such as excessive expense to implement or infeasibility of implementation of the proposal.

(b) Implementation strategies must be evidence-based, when available; or development and implementation of innovative programs and practices should be supported by evaluation measures.

(4) When requesting demographic information under subsection (2)(b) of this section, a hospital must inform participants that providing the information is voluntary. If a hospital fails to report demographic information under subsection (2)(b) of this section because a participant refused to provide the information, the department may not take any action against the hospital for failure to comply with reporting requirements or other licensing standards on that basis.

(5) For the purposes of this section, the term "widely available to the public" has the same meaning as in the internal revenue service guidelines.

NEW SECTION. Sec. 6. The department of health shall develop any forms or guidance required in this act at least 60 days before hospitals are required to utilize the form or guidance.

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, 2021, in the omnibus appropriations act, this act is null and void.

Passed by the House April 13, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 163

[Engrossed Substitute House Bill 1273]

SCHOOLS—MENSTRUAL PRODUCTS

AN ACT Relating to menstrual hygiene products in school and postsecondary institution bathrooms; adding a new section to chapter 28A.210 RCW; and adding a new chapter to Title 28B 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) By the beginning of the 2022-23 school year, school districts and private schools must make menstrual hygiene products available at no cost in all gender-neutral bathrooms and bathrooms designated for female students located in schools that serve students in any of grades six through twelve. If a school building serving grades six through twelve does not have a gender-neutral bathroom, then the products must also be available in at least one bathroom accessible to male students or in a school health room accessible to all students. For schools that serve students in grades three through five, school districts and private schools must make menstrual hygiene products available in a school health room or other location as designated by the school principal.

(2) Menstrual hygiene products must include sanitary napkins, tampons, or similar items.

(3) School districts and private schools must bear the cost of supplying menstrual hygiene products. School districts and private schools may seek grants

or partner with nonprofit or community-based organizations to fulfill this obligation.

(4) This section governs school operation and management under RCW 28A.710.040 and 28A.715.020 and applies to charter schools established under chapter 28A.710 RCW and state-tribal compact schools established under chapter 28A.715 RCW.

NEW SECTION. Sec. 2. (1) By the beginning of the 2022-23 academic year, institutions of higher education as defined in RCW 28B.92.030 must make menstrual hygiene products available at no cost in all gender-neutral bathrooms and bathrooms designated for female students.

(2) Menstrual hygiene products must include sanitary napkins, tampons, or similar items.

(3) Institutions of higher education must bear the cost of supplying menstrual hygiene products. Institutions of higher education may seek grants or partner with nonprofit or community-based organizations to fulfill this obligation.

NEW SECTION. Sec. 3. Section 2 of this act constitutes a new chapter in Title 28B RCW.

Passed by the House April 14, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 164

[Engrossed Second Substitute House Bill 1295]

INSTITUTIONAL EDUCATION—VARIOUS PROVISIONS

AN ACT Relating to the provision of public education to youth in or released from institutional education facilities; amending RCW 28A.150.200, 28A.175.105, 43.41.400, and 13.04.145; reenacting and amending RCW 28A.320.192; adding new sections to chapter 28A.190 RCW; adding a new section to chapter 28A.300 RCW; creating new sections; repealing RCW 28A.190.015 and 28A.190.020; and providing expiration dates.

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

NEW SECTION. Sec. 1. (1) The legislature finds that students in Washington's secure facilities have been unable to access the education and supports they need to make life-changing academic progress. As a result, these students have experienced dismal graduation and recidivism rates, and have lost invaluable opportunities for hope and transformation.

(2) In 2020, the legislature enacted chapter 226, Laws of 2020, and established the task force on improving institutional education programs and outcomes. The task force efforts resulted in a series of well-considered recommendations that inform this act and, perhaps more importantly, offer a new opportunity to make critical policy advances for students and dedicated staff that are too often overlooked.

(3) The legislature acknowledges that institutional education facilities are part of the public school system and that the students in secure facilities deserve full access to the state's basic education program and its promise of an

opportunity to graduate with a meaningful diploma that prepares them for postsecondary education, gainful employment, and citizenship.

(4) The legislature finds that key reforms are needed to the institutional education system, including the development of an education program that is both student-centered and anchored in the principle that student improvement through education must be the system's primary objective. The legislature further finds that an effective institutional education system must have sufficient funding and proper administrative structures to assure effective functionality, oversight, and accountability.

(5) Although the task of making meaningful reforms to the institutional education system cannot be accomplished through a single legislative act, the legislature intends for this act to be a significant step of progress in better meeting the needs of students who are in or have been involved with the traditional components of the juvenile justice system, with subsequent legislative efforts to be focused on the education of students in other institutional settings, including those in long-term inpatient programs and those with exceptional mental or physical needs.

(6) The legislature, therefore, intends to establish new and modified requirements for the institutional education system that promote student success through improved agency and education provider practices, updated credit-awarding practices, new data collection and reporting requirements, and the development of expert recommendations that will create an implementable blueprint for successfully meeting complex student needs and improving education and postrelease outcomes.

Sec. 2. RCW 28A.150.200 and 2017 3rd sp.s. c 13 s 401 are each amended to read as follows:

(1) The program of basic education established under this chapter is deemed by the legislature to comply with the requirements of Article IX, section 1 of the state Constitution, which states that "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex," and is adopted pursuant to Article IX, section 2 of the state Constitution, which states that "The legislature shall provide for a general and uniform system of public schools."

(2) The legislature defines the program of basic education under this chapter as that which is necessary to provide the opportunity to develop the knowledge and skills necessary to meet the state-established high school graduation requirements that are intended to allow students to have the opportunity to graduate with a meaningful diploma that prepares them for postsecondary education, gainful employment, and citizenship. Basic education by necessity is an evolving program of instruction intended to reflect the changing educational opportunities that are needed to equip students for their role as productive citizens and includes the following:

(a) The instructional program of basic education the minimum components of which are described in RCW 28A.150.220;

(b) The program of education provided by chapter 28A.190 RCW for students in residential schools as defined by (~~RCW 28A.190.020~~) section 3 of this act and for juveniles in detention facilities as identified by RCW 28A.190.010;

(c) The program of education provided by chapter 28A.193 RCW for individuals under the age of eighteen who are incarcerated in adult correctional facilities;

(d) Transportation and transportation services to and from school for eligible students as provided under RCW 28A.160.150 through 28A.160.180; and

(e) Statewide salary allocations necessary to hire and retain qualified staff for the state's statutory program of basic education.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.190 RCW to read as follows:

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

(1) "Institutional education facility" means residential habilitation and child study and treatment centers operated by the department of social and health services, state long-term juvenile institutions operated by the department of children, youth, and families, state-operated community facilities, county juvenile detention centers, and facilities of the department of corrections that incarcerate juveniles committed as adults.

(2) "Institutional education program" means the program of education that is provided to youth in institutional education facilities as a mandatory component of the program of basic education under RCW 28A.150.200.

(3) "Institutional education provider" or "provider" means a school district, educational service district, or other entity providing education services to youth in an institutional education facility.

(4) "Postresident youth" means a person who is under the age of 21 and a former resident of an institutional education facility. A postresident youth may be a public school student or a person who is eligible to be a public school student but who is not enrolled in a school or otherwise receiving basic education services.

(5) "Residential school" means the following institutional education facilities: Green Hill school, Naselle Youth Camp, Echo Glen, Lakeland Village, Rainier school, Yakima Valley school, Fircrest school, the Child Study and Treatment Center and Secondary School of western state hospital, and other schools, camps, and centers established by the department of social and health services or the department of children, youth, and families for the diagnosis, confinement, and rehabilitation of juveniles committed by the courts or for the care and treatment of persons who are exceptional in their needs by reason of mental or physical deficiency. "Residential school" does not include the state schools for the blind, the Washington state center for childhood deafness and hearing loss, or adult correctional institutions.

(6) "School district" has the same meaning as in RCW 28A.315.025 and includes any educational service district that has entered into an agreement to provide a program of education for residents at an institutional education facility on behalf of the school district as a cooperative service program pursuant to RCW 28A.310.180.

(7) "Youth" means a person who is under the age of 21 who is a resident of an institutional education facility. A youth may be a public school student or a person who is eligible to be a public school student but who is not enrolled in a school or otherwise receiving basic education services.

Sec. 4. RCW 28A.320.192 and 2017 c 166 s 1 and 2017 c 40 s 1 are each reenacted and amended to read as follows:

(1) In order to eliminate barriers and facilitate the on-time grade level progression and graduation of students who are homeless as described in RCW 28A.300.542, dependent pursuant to chapter 13.34 RCW, ~~((or))~~ at-risk youth or children in need of services pursuant to chapter 13.32A RCW, or in or have been released from an institutional education facility, school districts must incorporate the procedures in this section.

(2) School districts must waive specific courses required for graduation if similar coursework has been satisfactorily completed in another school district or must provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school district, the receiving school district must provide an alternative means of acquiring required coursework so that graduation may occur on time.

(3) School districts must consolidate partial credit, unresolved, or incomplete coursework and provide opportunities for credit accrual in a manner that eliminates academic and nonacademic barriers for the student.

(4) For students in or released from an institutional education facility, school districts must provide students with access to world language proficiency tests, American sign language proficiency tests, and general education development tests. Access to the tests may not be conditioned or otherwise dependent upon a student's request. School districts must award at least one high school credit to students upon meeting the standard established by the state board of education under subsection (9) of this section on a world language or American sign language proficiency test or a general education development test. Additional credits may be awarded by the district if a student has completed a course or courses of study to prepare for the test. If the school district has a local policy for awarding mastery-based credit on state or local assessments, the school district must apply this policy for students in or released from an institutional education facility.

(5) For students who have been unable to complete an academic course and receive full credit due to withdrawal or transfer, school districts must grant partial credit for coursework completed before the date of withdrawal or transfer and the receiving school must accept those credits, apply them to the student's academic progress or graduation or both, and allow the student to earn credits regardless of the student's date of enrollment in the receiving school.

~~((5))~~ (6) Should a student who is transferring at the beginning or during the student's junior or senior year be ineligible to graduate from the receiving school district after all alternatives have been considered, the sending and receiving districts must ensure the receipt of a diploma from the sending district if the student meets the graduation requirements of the sending district.

~~((6))~~ (7) The superintendent of public instruction shall adopt and distribute to all school districts lawful and reasonable rules prescribing the substantive and procedural obligations of school districts to implement these provisions.

~~((7))~~ (8) Should a student have enrolled in three or more school districts as a high school student and have met state requirements but be ineligible to graduate from the receiving school district after all alternatives have been considered, the receiving school district must waive its local requirements and ensure the receipt of a diploma.

(9) The state board of education, in consultation with the office of the superintendent of public instruction, shall identify the scores students must achieve in order to meet the standard on world language or American sign language proficiency tests and general education development tests in accordance with subsection (4) of this section.

(10) For purposes of this section, "institutional education facility" and "school district" have the same meaning as in section 3 of this act.

NEW SECTION. Sec. 5. (1) The office of the superintendent of public instruction shall examine the dropout prevention, intervention, and retrieval system established under chapter 28A.175 RCW, including associated rules. The purpose of the examination is to recommend new or modified dropout reengagement requirements and practices that will promote credit earning and high school completion by youth and postresident youth.

(2) Findings and recommendations resulting from the examination required by this section must be submitted by November 1, 2021, to the governor and the appropriate committees of the house of representatives and the senate in accordance with RCW 43.01.036.

(3) For purposes of this section, "postresident youth" and "youth" have the same meaning as in section 3 of this act.

(4) This section expires June 30, 2022.

NEW SECTION. Sec. 6. A new section is added to chapter 28A.190 RCW to read as follows:

Beginning in the 2021-22 school year, enrollments for students in residential schools as defined in section 3 of this act, for juveniles in detention facilities as identified by RCW 28A.190.010, and for individuals under the age of 18 who are incarcerated in adult correctional facilities may be funded above one full-time equivalent, provided that enrollments above one full-time equivalent allow for participation in dropout reengagement programs as defined in RCW 28A.175.105. State funding for enrollments in dropout reengagement programs in addition to institutional education facility enrollments must be allocated pursuant to RCW 28A.175.110 excluding administrative fees. The office of the superintendent of public instruction shall develop procedures for school districts to report student enrollment in institutional education facilities and dropout reengagement programs.

Sec. 7. RCW 28A.175.105 and 2013 c 39 s 5 are each amended to read as follows:

The definitions in this section apply throughout RCW 28A.175.100 through 28A.175.110 unless the context clearly requires otherwise:

(1) "Dropout reengagement program" means an educational program that offers at least the following instruction and services:

(a) Academic instruction, including but not limited to preparation to earn a high school equivalency certificate as provided in RCW 28B.50.536 in accordance with rules adopted under RCW 28A.305.190, academic skills instruction, and college and work readiness preparation, that generates credits that can be applied to a high school diploma from the student's school district or from a community or technical college under RCW 28B.50.535 and has the goal of enabling the student to obtain the academic and work readiness skills necessary for employment or postsecondary study. A dropout reengagement

program is not required to offer instruction in only those subject areas where a student is deficient in accumulated credits. Academic instruction must be provided by teachers certified by the Washington professional educator standards board or by instructors employed by a community or technical college whose required credentials are established by the college;

(b) Case management, academic and career counseling, and assistance with accessing services and resources that support at-risk youth and reduce barriers to educational success; and

(c) If the program provider is a community or technical college, the opportunity for qualified students to enroll in college courses that lead to a postsecondary degree or certificate. The college may not charge an eligible student tuition for such enrollment.

(2) "Eligible student" means a student who:

(a) Is at least sixteen but less than twenty-one years of age at the beginning of the school year;

(b) Is not accumulating sufficient credits toward a high school diploma to reasonably complete a high school diploma from a public school before the age of twenty-one or is recommended for the program by case managers from the department of social and health services or the juvenile justice system; and

(c) Is enrolled or enrolls in the school district in which the student resides, or is enrolled or enrolls in an institutional education program as defined in section 3 of this act or a nonresident school district under RCW 28A.225.220 through 28A.225.230.

(3) "Full-time equivalent eligible student" means an eligible student whose enrollment and attendance meet criteria adopted by the office of the superintendent of public instruction specifically for dropout reengagement programs. The criteria shall be:

(a) Based on the community or technical college credits generated by the student if the program provider is a community or technical college; and

(b) Based on a minimum amount of planned programming or instruction and minimum attendance by the student rather than hours of seat time if the program provider is a community-based organization.

NEW SECTION. Sec. 8. A new section is added to chapter 28A.190 RCW to read as follows:

(1) Institutional education providers shall annually deliver to all staff providing an institutional education program one day of professional development that builds pedagogical strategies to navigate the intersectionality of factors impacting student learning, including trauma, and physical, mental, and behavioral health in order to achieve academic milestone progression. At a minimum, the professional development must include training on the following topics:

(a) The cognitive, psychosocial, and emotional development of adolescents;

(b) Mental and behavioral health literacy;

(c) The complex needs of students involved in the juvenile justice system, including the trauma associated with incarceration or voluntary or involuntary commitment in a long-term psychiatric inpatient program;

(d) Racial literacy and cultural competency, as defined in RCW 28A.410.260; and

(e) Working with adolescents with many adverse childhood experiences.

(2) In addition to the professional learning allocations provided in RCW 28A.150.415, the legislature shall provide and the superintendent of public instruction shall allocate to institutional education providers one professional learning day of funding to provide the professional development required under this section.

NEW SECTION. Sec. 9. A new section is added to chapter 28A.190 RCW to read as follows:

With respect to students in institutional education facilities governed by this chapter, the department of children, youth, and families must:

(1) Identify data needed by the department and institutional education facilities to evaluate the facilities' administrative and operational role in providing education to students and supporting students' educational outcomes. This data must include attendance, discipline rates, course and certificate completion rates, and other educational metrics;

(2) Analyze, and make a plan to resolve, department and institutional education facilities policies and practices that suspend the provision of educational services to a student as a disciplinary action, so that students are never denied the opportunity to engage in educational activities; and

(3) Review and resolve department and institutional education facility policies and practices that create barriers to students participating in meaningful learning opportunities, for example, career and technical education and postsecondary opportunities, in whatever location and format those opportunities are provided.

(4) In meeting the requirements of this section, the department of children, youth, and families must seek input from institutional education providers.

NEW SECTION. Sec. 10. A new section is added to chapter 28A.300 RCW to read as follows:

(1)(a) Beginning July 1, 2022, and every three years thereafter, the office of the superintendent of public instruction shall report on the funding and services provided in support of youth pursuant to Washington's every student succeeds act consolidated plan, Title I, part D: Prevention and intervention programs for children and youth who are neglected, delinquent, or at-risk, and the education outcomes resulting from the funding and provided services.

(b) The purpose of the report is to inform the legislature of progress toward the goals established in the consolidated plan and provide the legislature with the opportunity to determine whether subsequent legislation should be enacted to ensure the education needs of youth and postresident youth.

(2) Reports required by this section, which must delineate the recipients of the federal funds and how they are being used to support the education needs of youth and postresident youth, must be submitted to the appropriate committees of the house of representatives and the senate in accordance with RCW 43.01.036.

(3) For purposes of this section, "postresident youth" and "youth" have the same meanings as in section 3 of this act.

NEW SECTION. Sec. 11. A new section is added to chapter 28A.190 RCW to read as follows:

(1) The legislature intends to ensure that institutional education facilities include efficient systems to minimize learning loss and maximize credit accrual

during transitions for youth and postresident youth. The legislature intends also for the report required by this section to inform its understanding of policy and funding changes that may be necessary to accomplish the objective of improving institutional education programs and outcomes.

(2) The office of the superintendent of public instruction shall modify or establish requirements and supports for the provision of public education to youth and postresident youth. In meeting the requirements of this section, the office of the superintendent of public instruction shall:

(a) Adopt rules requiring institutional education providers at state long-term juvenile institutions and state-operated community facilities to conduct an individualized education program review for each newly admitted youth who either does not have an individualized education program or does not have an individualized education program that has been reviewed in a meeting with the youth, parent or guardian, and applicable school personnel in the previous 12 months;

(b) Adopt rules requiring institutional education providers to, upon admission of a youth to an institutional education facility, conduct a review and assessment of needed services for each facility transition the youth experiences within the juvenile justice system. Rules adopted in accordance with this subsection (2)(b) do not apply to institutional education providers at facilities operated by or under the jurisdiction of the department of social and health services; and

(c) Adopt, for youth in state long-term juvenile institutions and state-operated community facilities, rules to implement accountability measures for special education services delivered by institutional education providers, including the establishment of mediation and appeals options related to special education services that recognize the unique situation of youth and postresident youth.

(3) A summary of any adopted or pending rules developed in accordance with this section must be submitted to the appropriate committees of the legislature in accordance with RCW 43.01.036 by November 1, 2021, in time for any needed legislative action during the 2022 regular legislative session.

NEW SECTION. Sec. 12. A new section is added to chapter 28A.190 RCW to read as follows:

(1) The office of the superintendent of public instruction shall annually collect and post on its website data related to institutional education programs, disaggregated by gender, race, ethnicity, and age, including data on:

- (a) Individualized education programs;
- (b) Access to relevant instruction that is aligned with the youth's high school and beyond plan and any unmet graduation requirements;
- (c) Student attendance;
- (d) Metrics of student education status upon the beginning of residency in an institutional education facility;
- (e) Student education progress during residency in an institutional education facility;
- (f) Student education attainment during residency in an institutional education facility; and

(g) Long-term education and workforce outcomes of youth in and released from institutional education facilities as provided annually by the education data center under RCW 43.41.400.

(2)(a) The office of the superintendent of public instruction shall also annually recommend modifications to the state board of education for changes to annual school improvement plan requirements in WAC 180-16-220 that would allow plans for state long-term juvenile institutions to be formatted for the specific needs and circumstances of institutional settings. In meeting the requirements of this subsection (2)(a), the office of the superintendent of public instruction shall seek input from institutional education providers and the department of children, youth, and families.

(b) In meeting the requirements of this section, the office of the superintendent of public instruction may make recommendations to the state board of education for changes to annual school improvement plan requirements based upon data collected under this section, other provisions of law, or both.

NEW SECTION. Sec. 13. A new section is added to chapter 28A.190 RCW to read as follows:

The office of the superintendent of public instruction must provide a copy of the disaggregated data provided under section 12(1) of this act to the board of directors of each school district that provides education services to youth and postresident youth for the purpose of giving the board the opportunity to:

- (1) Review the performance of the institutional education provider; and
- (2) Make changes to annual school improvement plans required by WAC 180-16-220, or other policies and procedures as necessary to improve youth and postresident youth outcomes.

NEW SECTION. Sec. 14. A new section is added to chapter 28A.190 RCW to read as follows:

(1)(a) The office of the superintendent of public instruction and the department of children, youth, and families shall jointly develop recommendations for the establishment, implementation, and funding of a reformed institutional education system that successfully meets the education and support needs of persons in and released from secure settings. Recommendations developed under this subsection (1) must be based on the foundational concept that every student can succeed if given the necessary supports. With the exception of funding recommendations required by (a)(ii) of this subsection (1), the recommendations developed under this subsection (1) should be directed toward meeting the education needs of persons who are in or have been released from state long-term juvenile institutions and community facilities operated by the department of children, youth, and families, county juvenile detention centers, and facilities of the department of corrections that incarcerate juveniles committed as adults. The recommendations must address:

(i) The establishment of an organizational and accountability structure for institutional education that is focused on meeting complex student needs and improving student outcomes;

(ii) The establishment of an equitable, long-term funding model for institutional education that sustainably supports the organizational and accountability structure established under (a)(i) of this subsection (1); and

(iii) The development of a regular and ongoing review of system performance and education outcomes.

(b) The recommendations developed under this subsection (1) must also include the following:

(i) The content and structure of common education, information, and support systems that would include a common, culturally competent curriculum, improve system efficacy, and minimize the negative academic impacts of transitions;

(ii) A coordinated staffing model for institutional education facility and institutional education provider operations and effectiveness in meeting student needs, and a mechanism for developing subsequent recommendations for improvements to the model;

(iii) Practices to ensure that there is a robust program of education advocates for youth in all institutional education facilities;

(iv) Practices for shared data tracking and goal setting for youth progress and learning needs;

(v) Promoting the effective delivery of tiered supports in institutional education facilities in coordination with state and county facility operators, institutional education providers, and community-based organizations delivering those services;

(vi) Promoting the development of an operational safety strategy for safe learning environments for students and staff;

(vii) Promoting operations that prioritize education delivery;

(viii) Maximizing youth and postresident youth access to: (A) Career and technical education and postsecondary education pathways that occur at institutional education facilities and at off-site locations; and (B) mastery-based learning that leads to credit accrual and graduation pathways;

(ix) Establishing new or modified requirements and procedures for the successful release of youth from institutional education facilities by recommending an effective team-based transition process with identified prereзидент and postresident transition services and supports that include, but are not limited to, basic needs, social-emotional support, and academic support;

(x) Establishing and supporting youth advisory, leadership, and mentoring programs to ensure pathways for youth and postresident youth involvement and development;

(xi) Identifying and establishing culturally responsive parent engagement strategies that support the education and well-being of youth and postresident youth and families;

(xii) Examining and expanding opportunities to include enrichment activities in institutional education programs and offer enrichment opportunities that promote academic and career goals; and

(xiii) Developing partnerships with postsecondary institutions, career and technical education programs, and community-based organizations, and identify ways to incorporate those partnerships into education services delivered by institutional education providers.

(c) In developing the recommendations required by this subsection (1), the office of the superintendent of public instruction and the department of children, youth, and families shall consult with the advisory group established in subsection (3) of this section.

(2) The superintendent of public instruction and the secretary of the department of children, youth, and families shall, by August 15, 2021, jointly designate an entity to facilitate the process of developing recommendations required by subsection (1) of this section, and the advisory group established in subsection (3) of this section. The office of the superintendent of public instruction is responsible for contracts or other agreements necessary to secure the services of the designated entity. The designated entity must: (a) Be a nonprofit and nonpartisan organization with content expertise in improving education for incarcerated young people, including education program delivery, system structure, accountability, and school finance; and (b) have experience facilitating complex cross-agency facilitation.

(3)(a) The institutional education structure and accountability advisory group is established for the purpose of providing advice, assistance, and information to the office of the superintendent of public instruction and the department of children, youth, and families in meeting the requirements of subsection (1) of this section. The advisory group must consist of representatives from the following, but other members may be added by request of the superintendent of public instruction or the secretary of the department of children, youth, and families:

- (i) The state board of education;
- (ii) The department of social and health services;
- (iii) A statewide organization representing counties;
- (iv) The administrative office of the courts;
- (v) The office of the education ombuds;
- (vi) The educational opportunity gap oversight and accountability committee;
- (vii) A statewide organization representing teachers;
- (viii) A statewide organization representing classified education staff;
- (ix) Nonprofit organizations representing the interest of youth and families involved in the juvenile justice system;
- (x) Persons who are or have been involved in the juvenile justice system and their families; and
- (xi) A statewide organization representing state employees.

(b) In recognition of the need to ensure representation on the advisory group, persons serving under (a)(x) of this subsection are eligible for travel expense reimbursement. Other members of the advisory group are not entitled to expense reimbursement.

(4) Staff support for the advisory group must be provided by the entity selected under subsection (2) of this section.

(5)(a) Recommendations required by this section must, in accordance with RCW 43.01.036, be provided to the governor and the education and fiscal committees of the house of representatives and the senate, by November 1, 2022. The recommendations should include a plan and a phased timeline for their implementation in different types of institutional education facilities, including state long-term juvenile institutions, state-operated community facilities, residential habilitation centers, and county juvenile detention centers.

(b) By December 15, 2021, the office of the superintendent of public instruction and the department of children, youth, and families shall, in accordance with RCW 43.01.036, provide an interim report on progress made in

achieving the requirements of this section to the governor and the education and fiscal committees of the house of representatives and the senate.

(6) This section expires June 30, 2023.

Sec. 15. RCW 43.41.400 and 2017 3rd sp.s. c 6 s 223 are each amended to read as follows:

(1) An education data center shall be established in the office of financial management. The education data center shall jointly, with the legislative evaluation and accountability program committee, conduct collaborative analyses of early learning, K-12, and higher education programs and education issues across the P-20 system, which includes the department of children, youth, and families, the superintendent of public instruction, the professional educator standards board, the state board of education, the state board for community and technical colleges, the workforce training and education coordinating board, the student achievement council, public and private nonprofit four-year institutions of higher education, and the employment security department. The education data center shall conduct collaborative analyses under this section with the legislative evaluation and accountability program committee and provide data electronically to the legislative evaluation and accountability program committee, to the extent permitted by state and federal confidentiality requirements. The education data center shall be considered an authorized representative of the state educational agencies in this section under applicable federal and state statutes for purposes of accessing and compiling student record data for research purposes.

(2) The education data center shall:

(a) In consultation with the legislative evaluation and accountability program committee and the agencies and organizations participating in the education data center, identify the critical research and policy questions that are intended to be addressed by the education data center and the data needed to address the questions;

(b) Coordinate with other state education agencies to compile and analyze education data, including data on student demographics that is disaggregated by distinct ethnic categories within racial subgroups, and complete P-20 research projects;

(c) Collaborate with the legislative evaluation and accountability program committee and the education and fiscal committees of the legislature in identifying the data to be compiled and analyzed to ensure that legislative interests are served;

(d) Annually provide to the K-12 data governance group a list of data elements and data quality improvements that are necessary to answer the research and policy questions identified by the education data center and have been identified by the legislative committees in (c) of this subsection. Within three months of receiving the list, the K-12 data governance group shall develop and transmit to the education data center a feasibility analysis of obtaining or improving the data, including the steps required, estimated time frame, and the financial and other resources that would be required. Based on the analysis, the education data center shall submit, if necessary, a recommendation to the legislature regarding any statutory changes or resources that would be needed to collect or improve the data;

(e) Monitor and evaluate the education data collection systems of the organizations and agencies represented in the education data center ensuring that data systems are flexible, able to adapt to evolving needs for information, and to the extent feasible and necessary, include data that are needed to conduct the analyses and provide answers to the research and policy questions identified in (a) of this subsection;

(f) Track enrollment and outcomes through the public centralized higher education enrollment system;

(g) Assist other state educational agencies' collaborative efforts to develop a long-range enrollment plan for higher education including estimates to meet demographic and workforce needs;

(h) Provide research that focuses on student transitions within and among the early learning, K-12, and higher education sectors in the P-20 system;

(i) Prepare ~~((a regular))~~ an annual report on the educational and workforce outcomes of youth in ~~((the juvenile justice system))~~ and released from institutional education facilities as defined in section 3 of this act, using data disaggregated by age, and by ethnic categories and racial subgroups in accordance with RCW 28A.300.042. The annual report required by this subsection (2)(i) must be provided to the office of the superintendent of public instruction in a manner that is suitable for compliance with section 12 of this act; and

(j) Make recommendations to the legislature as necessary to help ensure the goals and objectives of this section and RCW 28A.655.210 and 28A.300.507 are met.

(3) The department of children, youth, and families, superintendent of public instruction, professional educator standards board, state board of education, state board for community and technical colleges, workforce training and education coordinating board, student achievement council, public four-year institutions of higher education, department of social and health services, and employment security department shall work with the education data center to develop data-sharing and research agreements, consistent with applicable security and confidentiality requirements, to facilitate the work of the center. The education data center shall also develop data-sharing and research agreements with the administrative office of the courts to conduct research on educational and workforce outcomes using data maintained under RCW 13.50.010(12) related to juveniles. Private, nonprofit institutions of higher education that provide programs of education beyond the high school level leading at least to the baccalaureate degree and are accredited by the Northwest association of schools and colleges or their peer accreditation bodies may also develop data-sharing and research agreements with the education data center, consistent with applicable security and confidentiality requirements. The education data center shall make data from collaborative analyses available to the education agencies and institutions that contribute data to the education data center to the extent allowed by federal and state security and confidentiality requirements applicable to the data of each contributing agency or institution.

Sec. 16. RCW 13.04.145 and 2017 3rd sp.s. c 6 s 604 are each amended to read as follows:

A program of education shall be provided for by the several counties and school districts of the state for common school-age persons confined in each of

the detention facilities staffed and maintained by the several counties of the state under this chapter and chapters 13.16 and 13.20 RCW. The division of duties, authority, and liabilities of the several counties and school districts of the state respecting the educational programs is the same in all respects as set forth in chapter 28A.190 RCW respecting programs of education for state residential school residents. (~~For the purposes of this section, the terms "department of children, youth, and families," "residential school" or "schools," and "superintendent or chief administrator of a residential school" as used in chapter 28A.190 RCW shall be respectively construed to mean "the several counties of the state," "detention facilities," and "the administrator of juvenile court detention services."~~) Nothing in this section shall prohibit a school district from utilizing the services of an educational service district subject to RCW 28A.310.180.

NEW SECTION. Sec. 17. The following acts or parts of acts are each repealed:

- (1) RCW 28A.190.015 ("School district" defined—Application of RCW 13.04.145) and 2014 c 157 s 1; and
- (2) RCW 28A.190.020 (Educational programs for residential school residents—"Residential school" defined) and 2017 3rd sp.s. c 6 s 721, 2014 c 157 s 3, 1990 c 33 s 171, & 1979 ex.s. c 217 s 1.

NEW SECTION. Sec. 18. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void.

Passed by the House April 15, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 165

[Engrossed House Bill 1311]

SUBSTANCE USE DISORDER PROFESSIONAL CERTIFICATIONS—APPRENTICESHIP PROGRAMS

AN ACT Relating to authorizing the issuance of substance use disorder professional certifications to persons participating in apprenticeship programs; amending RCW 18.205.095 and 18.205.090; adding a new section to chapter 49.04 RCW; adding a new section to chapter 18.205 RCW; and creating a new section.

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

Sec. 1. RCW 18.205.095 and 2019 c 444 s 6 are each amended to read as follows:

(1) The secretary shall issue a trainee certificate to any applicant who demonstrates to the satisfaction of the secretary that he or she is working toward the education and experience requirements in RCW 18.205.090.

(2) A trainee certified under this section shall submit to the secretary for approval a declaration, in accordance with rules adopted by the department, which shall be updated with the trainee's annual renewal, that he or she is actively pursuing the experience requirements under RCW 18.205.090 and is enrolled in ((an)):

(a) An approved education program ((and actively pursuing the experience requirements in RCW 18.205.090. This declaration must be updated with the trainee's annual renewal)); or

(b) An apprenticeship program reviewed by the substance use disorder certification advisory committee, approved by the secretary, and registered and approved under chapter 49.04 RCW.

(3) A trainee certified under this section may practice only under the supervision of a certified substance use disorder professional. The first fifty hours of any face-to-face client contact must be under direct observation. All remaining experience must be under supervision in accordance with rules adopted by the department.

(4) A certified substance use disorder professional trainee provides substance use disorder assessments, counseling, and case management with a state regulated agency and can provide clinical services to patients consistent with his or her education, training, and experience as approved by his or her supervisor.

(5) A trainee certification may only be renewed four times.

(6) Applicants are subject to denial of a certificate or issuance of a conditional certificate for the reasons set forth in chapter 18.130 RCW.

(7) As of July 28, 2019, a person certified under this chapter holding the title of chemical dependency professional trainee is considered to hold the title of substance use disorder professional trainee until such time as the person's present certification expires or is renewed.

Sec. 2. RCW 18.205.090 and 2019 c 444 s 5 are each amended to read as follows:

(1) The secretary shall issue a certificate to any applicant who demonstrates to the secretary's satisfaction that the following requirements have been met:

(a) Completion of ~~((an))~~:

(i) An educational program approved by the secretary;

(ii) An apprenticeship program reviewed by the substance use disorder certification advisory committee, approved by the secretary, and registered and approved under chapter 49.04 RCW; or ((successful completion of alternate))

(iii) Alternate training that meets established criteria;

(b) Successful completion of an approved examination, based on core competencies of substance use disorder counseling; and

(c) Successful completion of an experience requirement that establishes fewer hours of experience for applicants with higher levels of relevant education. In meeting any experience requirement established under this subsection, the secretary may not require more than one thousand five hundred hours of experience in substance use disorder counseling for applicants who are licensed under chapter 18.83 RCW or under chapter 18.79 RCW as advanced registered nurse practitioners.

(2) The secretary shall establish by rule what constitutes adequate proof of meeting the criteria.

(3) Applicants are subject to the grounds for denial of a certificate or issuance of a conditional certificate under chapter 18.130 RCW.

(4) Certified substance use disorder professionals shall not be required to be registered under chapter 18.19 RCW or licensed under chapter 18.225 RCW.

(5) As of July 28, 2019, a person certified under this chapter holding the title of chemical dependency professional is considered to hold the title of substance use disorder professional until such time as the person's present certification expires or is renewed.

NEW SECTION. Sec. 3. A new section is added to chapter 49.04 RCW to read as follows:

Educational requirements for an apprenticeship for substance use disorder professionals must be defined by the secretary of health under RCW 18.205.100.

NEW SECTION. Sec. 4. A new section is added to chapter 18.205 RCW to read as follows:

All education requirements established as defined by the secretary under RCW 18.205.100 credited by an approved education program for participants in the apprenticeship program for substance use disorder professionals must meet or exceed competency requirements established by the secretary.

NEW SECTION. Sec. 5. The department of health may adopt any rules necessary to implement this act.

Passed by the House April 12, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 166

[Substitute House Bill 1348]

INCARCERATED PERSONS—MEDICAL ASSISTANCE

AN ACT Relating to the provision of medical assistance to incarcerated persons; amending RCW 74.09.670; adding a new section to chapter 70.48 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. (1) The legislature finds that:

(a) Having access to same day and next day physical and behavioral health services is imperative to facilitate successful reentry for individuals releasing from jails;

(b) The overwhelming majority of individuals in jails are incarcerated for less than 30 days;

(c) Suspending medicaid for individuals on short-term jail stays causes significant delays in medicaid reinstatement upon release; and

(d) Delays in medicaid reinstatement impede access to physical and behavioral health appointments and prescription medications upon release.

(2) The legislature intends to facilitate successful jail reentry by not suspending medicaid for individuals who are incarcerated for less than 30 days.

Sec. 2. RCW 74.09.670 and 2016 c 154 s 2 are each amended to read as follows:

((The)) (1) Except as provided in subsection (2) of this section, when the authority ((is directed to)) receives information that a person enrolled in medical assistance is confined in a setting in which federal financial participation is disallowed by the state's agreements with the federal government, the authority shall suspend, rather than terminate, medical assistance benefits ((by July 1,

2017,)) for these persons, including those who are incarcerated in a correctional institution as defined in RCW 9.94.049, or committed to a state hospital or other treatment facility. ~~((This must include the ability for a~~) A person who is not currently enrolled in medical assistance must be allowed to apply for medical assistance in suspense status during ~~((incarceration))~~ confinement, and the ability to apply may not depend upon knowledge of the release or discharge date of the person. ~~((The authority must provide a progress report describing program design and a detailed fiscal estimate to the governor and relevant committees of the legislature by December 1, 2016-))~~

(2)(a) During the first 29 days of a person's incarceration in a correctional institution, as defined in RCW 9.94.049:

(i) A person's incarceration status may not affect the person's enrollment in medical assistance if the person was enrolled in medical assistance at the time of incarceration; and

(ii) A person not enrolled in medical assistance at the time of incarceration must have the ability to apply for medical assistance during incarceration, which may not depend on knowledge of the release date of the person. If the person is enrolled in medical assistance during the first 29 days of the person's incarceration, the person's incarceration status may not affect the person's enrollment in medical assistance.

(b) After the first 29 days of the person's incarceration, the person's medical assistance status is subject to suspension or application in suspense status under subsection (1) of this section.

NEW SECTION. Sec. 3. A new section is added to chapter 70.48 RCW to read as follows:

A department of corrections or chief law enforcement officer responsible for the operation of a jail shall make reasonable efforts to collaborate with managed care organizations, as defined in RCW 71.24.025, for the purposes of care coordination activities and improving health care delivery and release planning for persons confined in the jail.

NEW SECTION. Sec. 4. The health care authority is authorized to seek any necessary state plan amendments or waivers from the federal department of health and human services that are necessary to implement section 2 of this act.

NEW SECTION. Sec. 5. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

Passed by the House April 16, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 167

[Substitute House Bill 1373]

PUBLIC SCHOOLS—BEHAVIORAL HEALTH RESOURCES—WEBSITE

AN ACT Relating to promoting student access to information about behavioral health resources; adding a new section to chapter 28A.320 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 student behavioral health issues have become a crisis in Washington state, necessitating the deployment of behavioral health resources in schools throughout the state. The legislature's concerns are based on the following facts:

(a) According to the healthy youth survey conducted by the office of the superintendent of public instruction in 2018, one in five students in eighth, 10th, and 12th grades considered attempting suicide in the past year while just half of those surveyed had an adult to turn to when feeling sad or hopeless;

(b) According to the national institute for mental health, more than one in 25 adolescents between 13 and 18 years of age are experiencing an eating disorder;

(c) According to the national institute of drug abuse, nearly half of 12th grade students have used illicit drugs, six in 10 have drank alcohol, and four in 10 have used marijuana;

(d) The COVID-19 pandemic has increased the prevalence of and exacerbated existing behavioral health disorders for minors across the state; and

(e) A major barrier to behavioral health support for minors is lack of awareness and access to information about existing services.

(2) The legislature intends to require that contact information for a suicide prevention organization, depression or anxiety support organization, eating disorder support organization, substance abuse support organization, and a mental health referral service for children and teens be listed on the home page of each public school website for the following reasons:

(a) Immediate access to behavioral health services often prevents suicide, attempted suicide, and other self-harm; and

(b) Students in public schools often have access to and spend time on the website for their school.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.320 RCW to read as follows:

(1)(a) Within existing resources, every public school that maintains a website must publish onto the home page of that website the following information:

(i) The website address and phone number for one or more national suicide prevention organizations;

(ii) The website address and phone number for one or more local, state, or national organizations specializing in suicide prevention or crisis intervention;

(iii) The website address and phone number for one or more local, state, or national organizations specializing in depression, anxiety, or counseling for adolescents;

(iv) The website address and phone number for one or more local, state, or national organizations specializing in eating disorders for adolescents;

(v) The website address and phone number for one or more local, state, or national organizations specializing in substance abuse for adolescents; and

(vi) The website address and phone number for a mental health referral service for children and teens under chapter . . . (Second Substitute House Bill No. 1325), Laws of 2021.

(b) A public school may meet the requirements of this subsection by publishing a prominent link on its home page to a behavioral and emotional health website that contains the required information.

(2) Public schools, in complying with the requirements of this section, must post information on social media websites used by the school district for the purpose of notifying students, families, and the public of the behavioral health resources available on websites as required by this section. The postings required by this subsection (2) must occur multiple times each year and no less than quarterly.

Passed by the House April 12, 2021.

Passed by the Senate April 3, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 168

[Substitute House Bill 1416]

CHILD SUPPORT COLLECTION—INSURANCE CLAIM PAYMENTS

AN ACT Relating to the reporting of debt information by insurers to enhance the collection of past-due child support; amending RCW 26.23.070; adding new sections to chapter 26.23 RCW; creating new sections; and providing an effective date.

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

NEW SECTION. Sec. 1. (1) The legislature finds that it is in the interests of the citizens of the state of Washington to enhance and increase the efficiency of the processes for collecting child support debts owed to the state or owed to a custodial parent.

(2) The legislature further finds that liens filed in the state of Washington are filed on a county-by-county basis, and there is no statewide registry or clearinghouse where a comprehensive collection of liens may be checked by a party or other entity before funds are disbursed to the debtor.

(3) The legislature further finds that it would enhance the collection opportunities for child support to require insurance companies doing business in the state of Washington to participate in a reporting scheme that would allow a data match with child support debts.

NEW SECTION. Sec. 2. A new section is added to chapter 26.23 RCW to read as follows:

(1)(a) Except as otherwise provided in subsection (8) of this section, each insurer shall, not later than 10 days after opening a tort liability claim for bodily injury or wrongful death, a workers' compensation claim, or a claim under a policy of life insurance, exchange information with the division of child support in the manner prescribed by the department to verify whether the claimant owes debt for the support of one or more children to the department or to a person receiving services from the division of child support. To the extent feasible, the division of child support shall facilitate a secure electronic process to exchange information with insurers pursuant to this subsection. The obligation of an

insurer to exchange information with the division of child support is discharged upon complying with the requirements of this subsection.

(b) The exchange of information pursuant to this act must comply with privacy protections under applicable state and federal laws and regulations, including the federal health insurance portability and accountability act.

(2) In order to determine whether a claimant owes a debt being enforced by the division of child support, all insurance companies doing business in the state of Washington that issue qualifying payments to claimants must provide minimum identifying information about the claimant to:

(a) An insurance claim data collection organization;

(b) The federal office of child support enforcement or the child support lien network; or

(c) The division of child support in a manner satisfactory to the department.

(3) Insurers must take the steps necessary to authorize an insurance claim data collection organization to share minimum identifying information with the federal office of child support enforcement and the child support claim lien network.

(4) Except as otherwise provided in subsections (5) and (7) of this section, if an insurer is notified by the division of child support that a claimant owes debt for the support of one or more children to the department or to a person receiving services from the division of child support, the insurer shall, upon the receipt of a notice issued by the department identifying the amount of debt owed pursuant to chapter 74.20A RCW:

(a) Withhold from payment on the claim the amount specified in the notice; and

(b) Remit the amount withheld from payment to the department within 20 days.

(5) The department shall give any lien, claim, or demand for reasonable claim-related attorneys' fees, property damage, and medical costs priority over any withholding of payment pursuant to subsection (4) of this section.

(6) Any information obtained pursuant to this act must be used only for the purpose of carrying out the provisions of this act. An insurer or other entity described in subsection (2) of this section may not be held liable in any civil or criminal action for any act made in good faith pursuant to this section including, but not limited to:

(a) Any disclosure of information to the department or the division of child support; or

(b) The withholding of any money from payment on a claim or the remittance of such money to the department.

(7) An insurer may not delay the disbursement of a payment on a claim to comply with the requirements of this section. An insurer is not required to comply with subsection (4) of this section if the notice issued by the department is received by the insurer after the insurer has disbursed the payment on the claim. In the case of a claim that will be paid through periodic payments, the insurer:

(a) Is not required to comply with the provisions of subsection (4) of this section with regard to any payments on the claim disbursed to the claimant before the notice was received by the insurer; and

(b) Must comply with the provisions of subsection (4) of this section with regard to any payments on the claim scheduled to be made after the receipt of the notice.

(8) If periodic payment will be made to a claimant, an insurer is only required to engage in the exchange of information pursuant to subsection (1) of this section before issuing the initial payment.

(9) An insurance company's failure to comply with the reporting requirements of this act does not amount to noncompliance with a requirement of the division of child support as described in RCW 74.20A.350.

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

(a) "Claimant" means any person who: (i) Brings a tort liability claim for bodily injury or wrongful death; (ii) is receiving workers' compensation benefits; or (iii) is a beneficiary under a life insurance policy. "Claim for bodily injury" does not include a claim for uninsured or underinsured vehicle coverage or medical payments coverage under a motor vehicle liability policy.

(b) "Insurance claim data collection organization" means an organization that maintains a centralized database of information concerning insurance claims to assist insurers that subscribe to the database in processing claims and detecting and preventing fraud, and also cooperates and coordinates with the federal or state child support entities to share relevant information for insurance intercept purposes.

(c) "Insurer" means: (i) A person who holds a certificate of authority to transact insurance in the state; or (ii) a chapter 48.15 RCW unauthorized insurer.

(d) "Qualifying payment" means a payment that is either a one-time lump sum or an installment payment issued by an insurance company doing business in the state of Washington, which is made for the purpose of satisfying, compromising, or settling, a tort or insurance claim where the payment is in excess of \$500 and is intended to go directly to the claimant and not to a third party, such as a health care provider.

(e) "Tort or insurance claim" means: (i) A claim for general damages, which are also called noneconomic damages; or (ii) a claim for lost wages. "Tort or insurance claim" does not include claims for property damage under either liability insurance or uninsured motorist insurance.

NEW SECTION. Sec. 3. A new section is added to chapter 26.23 RCW to read as follows:

An insurance company may comply with the obligation to exchange information with the division of child support described in section 2(1) of this act by using an insurance claim data collection organization as described in section 2(2) of this act.

Sec. 4. RCW 26.23.070 and 1991 c 367 s 41 are each amended to read as follows:

(1) The employer or the employment security department may combine amounts withheld from the earnings of more than one responsible parent in a single payment to the Washington state support registry, listing separately the amount of the payment which is attributable to each individual.

(2) No employer nor employment security department that complies with a notice of payroll deduction under this chapter shall be civilly liable to the

responsible parent for complying with a notice of payroll deduction under this chapter.

(3) No insurance company shall be civilly liable to the responsible parent for complying with:

(a) An order to withhold and deliver issued under RCW 74.20A.080 or with any other withholding order issued under chapter 26.23 RCW;

(b) A lien filed by the department under chapter 74.20A RCW; or

(c) A combined lien and withholding order developed by the department to implement this act.

(4) An insurance company complying with a withholding order issued by the department or with a lien filed by the department may not be considered to be committing a violation of the insurance fair conduct act under chapter 48.30 RCW.

NEW SECTION. Sec. 5. The department may enact rules necessary to implement and administer this act.

NEW SECTION. Sec. 6. This act takes effect January 1, 2022.

Passed by the House April 16, 2021.

Passed by the Senate April 11, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 169

[Engrossed Substitute House Bill 1443]

CANNABIS INDUSTRY—SOCIAL EQUITY

AN ACT Relating to social equity within the cannabis industry; amending RCW 43.330.540, 69.50.335, and 69.50.336; and providing an expiration date.

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

Sec. 1. RCW 43.330.540 and 2020 c 236 s 3 are each amended to read as follows:

(1) The ~~((marijuana))~~ cannabis social equity technical assistance ~~((competitive))~~ grant program is established and is to be administered by the department.

(2)(a) The ~~((marijuana))~~ cannabis social equity technical assistance ~~((competitive))~~ grant program must award grants ~~((on a competitive basis to marijuana retailer))~~ to:

(i) Cannabis license applicants who are social equity applicants submitting social equity plans under RCW 69.50.335; and

(ii) Cannabis licensees holding a license issued after June 30, 2020, and before the effective date of this section who meet the social equity applicant criteria under RCW 69.50.335.

(b) Grant recipients under this subsection (2) must demonstrate completion of their project within 12 months of receiving a grant, unless a grant recipient requests, and the department approves, additional time to complete the project.

(3) The department must award grants primarily based on the strength of the social equity plans submitted by cannabis license applicants and cannabis licensees holding a license issued after June 30, 2020, and before the effective date of this section, but may also consider additional criteria if deemed necessary

or appropriate by the department. Technical assistance activities eligible for funding ~~((under the marijuana social equity technical assistance competitive grant program))~~ include, but are not limited to:

(a) Assistance navigating the ~~((marijuana retailer))~~ cannabis licensure process;

(b) ~~((Marijuana business))~~ Cannabis-business specific education and business plan development;

(c) Regulatory compliance training;

(d) Financial management training and assistance in seeking financing;
~~((and))~~

(e) Strengthening a social equity plan; and

(f) Connecting social equity applicants with established industry members and tribal ~~((marijuana))~~ cannabis enterprises and programs for mentoring and other forms of support ~~((approved by the [Washington state liquor and cannabis] board))~~.

~~((3))~~ (4) The department may contract to establish a roster of mentors who are available to support and advise social equity applicants and current licensees who meet the social equity applicant criteria under RCW 69.50.335. Contractors under this section must:

(a) Have knowledge and experience demonstrating their ability to effectively advise eligible applicants and licensees in navigating the state's licensing and regulatory framework or on producing and processing cannabis;

(b) Be a business that is at least 51% minority or woman-owned; and

(c) Meet department reporting and invoicing requirements.

(5) Funding for the ~~((marijuana))~~ cannabis social equity technical assistance ~~((competitive))~~ grant program must be provided through the dedicated marijuana account under RCW 69.50.540. Additionally, the department may solicit, receive, and expend private contributions to support the grant program.

~~((4))~~ (6) The department may adopt rules to implement this section.

(7) For the purposes of this section, "cannabis" has the meaning provided for "marijuana" under RCW 69.50.101.

Sec. 2. RCW 69.50.335 and 2020 c 236 s 2 are each amended to read as follows:

(1) Beginning December 1, 2020, and until July 1, ~~((2028))~~ 2029, ~~((marijuana))~~ cannabis retailer licenses that have been subject to forfeiture, revocation, or cancellation by the board, or ~~((marijuana))~~ cannabis retailer licenses that were not previously issued by the board but could have been issued without exceeding the limit on the statewide number of ~~((marijuana))~~ cannabis retailer licenses established before January 1, 2020, by the board, may be issued or reissued to an applicant who meets the ~~((marijuana))~~ cannabis retailer license requirements of this chapter.

(2)(a) In order to be considered for a retail license under subsection (1) of this section, an applicant must be a social equity applicant and submit a social equity plan along with other ~~((marijuana))~~ cannabis retailer license application requirements to the board. If the application proposes ownership by more than one person, then at least fifty-one percent of the proposed ownership structure must reflect the qualifications of a social equity applicant.

(b) Persons holding an existing ~~((marijuana))~~ cannabis retailer license or title certificate for a ~~((marijuana))~~ cannabis retailer business in a local

jurisdiction subject to a ban or moratorium on ~~((marijuana))~~ cannabis retail businesses may apply for a license under this section.

(3)(a) In determining the issuance of a license among applicants, the board may prioritize applicants based on the extent to which the application addresses the components of the social equity plan.

(b) The board may deny any application submitted under this subsection if the board determines that:

(i) The application does not meet social equity goals or does not meet social equity plan requirements; or

(ii) The application does not otherwise meet the licensing requirements of this chapter.

(4) The board may adopt rules to implement this section. Rules may include strategies for receiving advice on the social equity program from individuals the program is intended to benefit. Rules may also require that licenses awarded under this section be transferred or sold only to individuals or groups of individuals who comply with the requirements for initial licensure as a social equity applicant with a social equity plan under this section.

(5) The annual fee for issuance, reissuance, or renewal for any license under this section must be equal to the fee established in RCW 69.50.325.

(6) For the purposes of this section:

(a) "Cannabis" has the meaning provided for "marijuana" under this chapter.

(b) "Disproportionately impacted area" means a census tract or comparable geographic area that satisfies the following criteria, which may be further defined in rule by the board after consultation with the commission on African American affairs and other agencies, commissions, and ~~((stakeholders))~~ community members as determined by the board:

(i) The area has a high poverty rate;

(ii) The area has a high rate of participation in income-based federal or state programs;

(iii) The area has a high rate of unemployment; and

(iv) The area has a high rate of arrest, conviction, or incarceration related to the sale, possession, use, cultivation, manufacture, or transport of ~~((marijuana))~~ cannabis.

~~((b))~~ (c) "Social equity applicant" means:

(i) An applicant who has at least fifty-one percent ownership and control by one or more individuals who have resided ~~((for at least five of the preceding ten years))~~ in a disproportionately impacted area for a period of time defined in rule by the board after consultation with the commission on African American affairs and other commissions, agencies, and community members as determined by the board; ~~((or))~~

(ii) An applicant who has at least fifty-one percent ownership and control by at least one individual who has been convicted of a ~~((marijuana))~~ cannabis offense, a drug offense, or is a family member of such an individual; or

(iii) An applicant who meets criteria defined in rule by the board after consultation with the commission on African American affairs and other commissions, agencies, and community members as determined by the board.

~~((c))~~ (d) "Social equity goals" means:

(i) Increasing the number of ~~((marijuana))~~ cannabis retailer licenses held by social equity applicants from disproportionately impacted areas; and

(ii) Reducing accumulated harm suffered by individuals, families, and local areas subject to severe impacts from the historical application and enforcement of ~~((marijuana))~~ cannabis prohibition laws.

~~((d))~~ (e) "Social equity plan" means a plan that addresses at least some of the elements outlined in this subsection ~~(6)~~~~((d))~~(e), along with any additional plan components or requirements approved by the board following consultation with the task force created in RCW 69.50.336. The plan may include:

(i) A statement that the social equity applicant qualifies as a social equity applicant and intends to own at least fifty-one percent of the proposed ~~((marijuana))~~ cannabis retail business or applicants representing at least fifty-one percent of the ownership of the proposed business qualify as social equity applicants;

(ii) A description of how issuing a ~~((marijuana))~~ cannabis retail license to the social equity applicant will meet social equity goals;

(iii) The social equity applicant's personal or family history with the criminal justice system including any offenses involving ~~((marijuana))~~ cannabis;

(iv) The composition of the workforce the social equity applicant intends to hire;

(v) Neighborhood characteristics of the location where the social equity applicant intends to operate, focusing especially on disproportionately impacted areas; and

(vi) Business plans involving partnerships or assistance to organizations or residents with connection to populations with a history of high rates of enforcement of ~~((marijuana))~~ cannabis prohibition.

Sec. 3. RCW 69.50.336 and 2020 c 236 s 5 are each amended to read as follows:

(1) A legislative task force on social equity in ~~((marijuana))~~ cannabis is established. The purpose of the task force is to make recommendations to the board including but not limited to establishing a social equity program for the issuance and reissuance of existing retail ~~((marijuana))~~, processor, and producer cannabis licenses, and to advise the governor and the legislature on policies that will facilitate development of a ~~((marijuana))~~ cannabis social equity program.

(2) The members of the task force are 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 president of the senate and the speaker of the house of representatives shall jointly appoint:

(i) One member from each of the following:

(A) The commission on African American affairs;

(B) The commission on Hispanic affairs;

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

(D) An organization representing the African American community;

(E) An organization representing the Latinx community;

(F) A labor organization involved in the ~~((marijuana))~~ cannabis industry;

(G) The liquor and cannabis board;

(H) The department of commerce;

(I) The office of the attorney general; and

(J) The association of Washington cities;

~~((and))~~ (ii) Two members that currently hold a ~~((marijuana))~~ cannabis retail license;

~~((or both)); and~~ (iii) Two members that currently hold a producer ~~((or processor))~~ license

(iv) Two members that currently hold a processor license.

(3) In addition to the members appointed to the task force under subsection (2) of this section, individuals representing other sectors may be invited by the chair of the task force, in consultation with the other appointed members of the task force, to participate in an advisory capacity in meetings of the task force.

(a) Individuals participating in an advisory capacity under this subsection are not members of the task force, may not vote, and are not subject to the appointment process established in this section.

(b) There is no limit to the number of individuals who may participate in task force meetings in an advisory capacity under this subsection.

(c) A majority of the task force members constitutes a quorum. If a member has not been designated for a position set forth in this section, that position may not be counted for the purpose of determining a quorum.

(4) The task force shall hold its first meeting by July 1, 2020. The task force shall elect a chair from among its legislative members at the first meeting. The election of the chair must be by a majority vote of the task force members who are present at the meeting. The chair of the task force is responsible for arranging subsequent meetings and developing meeting agendas.

(5) Staff support for the task force, including arranging the first meeting of the task force and assisting the chair of the task force in arranging subsequent meetings, must be provided by the health equity council of the governor's interagency council on health disparities. ~~((If Engrossed Second Substitute House Bill No. 1783 is enacted by June 30, 2020, then))~~ The responsibility for providing staff support for the task force must be transferred to the office of equity created ~~((by Engrossed Second Substitute House Bill No. 1783))~~ under chapter 43.06D RCW when requested by the office of equity.

~~((6))~~ ~~((The expenses of the task force must be paid jointly by the senate and the house of representatives. Task force expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.~~

~~((7))~~ Legislative members of the task force may be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

~~((8))~~ (7) The task force is a class one group under chapter 43.03 RCW.

~~((9))~~ (8) A public comment period must be provided at every meeting of the task force.

~~((10))~~ (9) The task force shall submit one or more reports on recommended policies that will facilitate the development of a ~~((marijuana))~~ cannabis social equity program in Washington to the governor, the board, and the appropriate committees of the legislature. The task force is encouraged to submit individual recommendations, as soon as possible, to facilitate the board's early

work to implement the recommendations. The final recommendations must be submitted by ~~((December 1, 2020))~~ December 9, 2022. The recommendations must include:

(a) Factors the board must consider in distributing the licenses currently available from ~~((marijuana))~~ cannabis retailer licenses that have been subject to forfeiture, revocation, or cancellation by the board, or ~~((marijuana))~~ cannabis retailer licenses that were not previously issued by the board but could have been issued without exceeding the limit on the statewide number of ~~((marijuana))~~ cannabis retailer licenses established by the board before January 1, 2020; ~~((and))~~

(b) Whether any additional ~~((marijuana))~~ cannabis producer, processor, or retailer licenses should be issued beyond the total number of ~~((marijuana))~~ licenses that have been issued as of June 11, 2020. For purposes of determining the total number of licenses issued as of June 11, 2020, the total number includes licenses that have been forfeited, revoked, or canceled;

(c) The social equity impact of altering residential cannabis agriculture regulations;

(d) The social equity impact of shifting primary regulation of cannabis production from the board to the department of agriculture, including potential impacts to the employment rights of workers;

(e) The social equity impact of removing nonviolent cannabis-related felonies and misdemeanors from the existing point system used to determine if a person qualifies for obtaining or renewing a cannabis license;

(f) Whether to create workforce training opportunities for underserved communities to increase employment opportunities in the cannabis industry;

(g) The social equity impact of creating new cannabis license types; and

(h) Recommendations for the cannabis social equity technical assistance grant program created under RCW 43.330.540.

~~((+1))~~ (10) The board may adopt rules to implement the recommendations of the task force. However, any recommendation to increase the number of retail outlets above the current statewide limit of retail outlets, established by the board before January 1, 2020, must be approved by the legislature.

~~((+2))~~ (11) For the purposes of this section, "cannabis" has the meaning provided for "marijuana" under this chapter.

(12) This section expires June 30, ~~((2022))~~ 2023.

Passed by the House April 15, 2021.

Passed by the Senate April 6, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 170

[Engrossed Second Substitute House Bill 1504]

WORKFORCE EDUCATION INVESTMENT ACT—VARIOUS PROVISIONS

AN ACT Relating to modifying the workforce education investment act to invest in new and existing behavioral health workforce programs; amending RCW 18.19.020, 28B.145.030, and 43.79.195; adding a new section to chapter 28B.115 RCW; adding a new section to chapter 71.24 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that there is a compelling and urgent need for coordinated investments in the state's behavioral health workforce. The demand for a qualified behavioral health workforce continues to grow as the availability of services throughout the state does not meet the need. According to the workforce training and education coordinating board's "behavioral health workforce: Barriers and solutions report," Washington ranks 31 out of the 50 states when comparing prevalence of mental illness to access to care. In addition, behavioral health needs have increased since the COVID-19 pandemic began and the need is expected to rise as economic and social hardships continue. Despite increased demand, the legislature finds that there continues to be difficulties in recruiting and retaining professionals who are adequately trained to meet behavioral health needs. Many of these professions require years of training, ranging from some postsecondary education to medical degrees. In addition, the legislature finds that there is significant variation in the geographic distribution of behavioral health providers across the state. Rural and underserved areas face disparities in access to care. High student loan debt loads, better pay, and lighter caseloads can drive behavioral health professionals into private practice or hospital-based settings rather than community-based settings which typically have a higher percentage of medicaid-funded services and higher caseloads.

The legislature finds that there are professions and areas within the behavioral health workforce that are most in need of state investment. The legislature intends to focus coordinated efforts and investments on these areas of greatest need including, but not limited to:

- (1) Behavioral health apprenticeships;
- (2) Children's mental health professionals;
- (3) Peer counselors;
- (4) Crisis hotline agents;
- (5) Behavioral health residencies for professionals such as psychiatrists, advanced registered nurse practitioners, physician assistants, and pharmacists;
- (6) Substance use disorder professionals;
- (7) Community mental health workers;
- (8) Clinical social workers;
- (9) Licensed mental health counselors;
- (10) Licensed marriage and family therapists; and
- (11) Clinical psychologists.

The legislature also recognizes existing programs that have helped recruit, retain, and grow the behavioral health workforce, such as the Washington health corps, which provides loan repayment to behavioral health professionals, and the Washington state opportunity scholarship, which utilizes a public-private match to fund scholarships for students pursuing health fields. Therefore, the legislature intends to increase the behavioral health workforce by expanding on successful existing programs, establishing new ones, and by focusing the efforts of the workforce education investment act.

NEW SECTION. Sec. 2. A new section is added to chapter 28B.115 RCW to read as follows:

The office and the department of health shall prioritize a portion of any nonfederal balances in the health professional loan repayment and scholarship program fund for conditional loan repayment contracts for applications that

reflect demographically underrepresented populations. Loan repayment contracts may include services provided in the community or at a designated site.

NEW SECTION. Sec. 3. A new section is added to chapter 71.24 RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the authority shall establish a behavioral health workforce pilot program and training support grants for community mental health providers including, but not limited to, clinical social workers, licensed mental health counselors, licensed marriage and family therapists, clinical psychologists, and substance abuse treatment providers. The authority must implement these services in partnership with and through the regional accountable communities of health or the University of Washington behavioral health institute.

(1)(a) The intent of the pilot program is to provide incentive pay for individuals serving as clinical supervisors within community behavioral health agencies, state hospitals, and other facilities operated by the department of social and health services. The desired outcomes of the pilot program include increased internships and entry opportunities for new clinicians through recruitment and retention of supervisors. The authority must ensure the pilot program covers three sites serving primarily medicaid clients in both eastern and western Washington. One of the sites must specialize in the delivery of behavioral health services for medicaid enrolled children. Of the remaining two sites, one must offer substance use disorder treatment services.

(b) The authority must provide a report to the office of financial management and the appropriate committees of the legislature by September 30, 2023, on the outcomes of the pilot program. The report must include:

(i) A description of the mechanism for incentivizing supervisor pay and other strategies used at each of the sites;

(ii) The number of supervisors that received bonus pay at each site;

(iii) The number of students or prelicensure clinicians that received supervision at each site;

(iv) The number of supervision hours provided at each site;

(v) Initial reporting on the number of students or prelicensure clinicians who received supervision through the pilot programs that moved into a permanent position with the pilot program or another community behavioral health program in Washington state at the end of their supervision;

(vi) Identification of options for establishing enhancement of supervisor pay through managed care organization payments to behavioral health providers; and

(vii) Recommendations of individual site policy and practice implications for statewide implementation.

(2) The authority shall establish a grant program to mental health and substance use disorder providers that provides flexible funding for training and mentoring of clinicians serving children and youth. The authority must consult with stakeholders, including but not limited to behavioral health experts in services for children and youth, providers, and consumers, to develop guidelines for how the funding could be used, with a focus on evidence-based and promising practices, continuing education requirements, and quality monitoring infrastructure.

Sec. 4. RCW 18.19.020 and 2019 c 470 s 3 are each amended to read as follows:

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

(1) "Agency" means (a) an agency or facility operated, licensed, or certified by the state of Washington; (b) a federally recognized Indian tribe located within the state; or (c) a county.

(2) "Agency affiliated counselor" means a person registered under this chapter who is engaged in counseling and employed by an agency or is a student intern, as defined by the department, who is supervised by agency staff. "Agency affiliated counselor" includes juvenile probation counselors who are employees of the juvenile court under RCW 13.04.035 and 13.04.040 and juvenile court employees providing functional family therapy, aggression replacement training, or other evidence-based programs approved by the department of children, youth, and families.

(3) "Certified adviser" means a person certified under this chapter who is engaged in private practice counseling to the extent authorized in RCW 18.19.200.

(4) "Certified counselor" means a person certified under this chapter who is engaged in private practice counseling to the extent authorized in RCW 18.19.200.

(5) "Client" means an individual who receives or participates in counseling or group counseling.

(6) "Counseling" means employing any therapeutic techniques, including but not limited to social work, mental health counseling, marriage and family therapy, and hypnotherapy, for a fee that offer, assist or attempt to assist an individual or individuals in the amelioration or adjustment of mental, emotional, or behavioral problems, and includes therapeutic techniques to achieve sensitivity and awareness of self and others and the development of human potential. For the purposes of this chapter, nothing may be construed to imply that the practice of hypnotherapy is necessarily limited to counseling.

(7) "Counselor" means an individual, practitioner, therapist, or analyst who engages in the practice of counseling to the public for a fee, including for the purposes of this chapter, hypnotherapists.

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

(9) "Hypnotherapist" means a person registered under this chapter who is practicing hypnosis as a modality.

(10) "Private practice counseling" means the practice of counseling by a certified counselor or certified adviser as specified in RCW 18.19.200.

(11) "Psychotherapy" means the practice of counseling using diagnosis of mental disorders according to the fourth edition of the diagnostic and statistical manual of mental disorders, published in 1994, and the development of treatment plans for counseling based on diagnosis of mental disorders in accordance with established practice standards.

(12) "Secretary" means the secretary of the department or the secretary's designee.

Sec. 5. RCW 28B.145.030 and 2019 c 406 s 65 are each amended to read as follows:

(1) The program administrator shall provide administrative support to execute the duties and responsibilities provided in this chapter, including but not limited to publicizing the program, selecting participants for the opportunity scholarship award, distributing opportunity scholarship awards, and achieving the maximum possible rate of return on investment of the accounts in subsection (2) of this section, while ensuring transparency in the investment decisions and processes. Duties, exercised jointly with the board, include soliciting funds and setting annual fund-raising goals. The program administrator shall be paid an administrative fee as determined by the board.

(2) With respect to the opportunity scholarship program, the program administrator shall:

(a) Establish and manage the specified accounts created in (b) of this subsection, into which to receive grants and contributions from private sources as well as state matching funds, and from which to disburse scholarship funds to participants;

(b) Solicit and accept grants and contributions from private sources, via direct payment, pledge agreement, or escrow account, of private sources for deposit into any of the specified accounts created in this subsection (2)(b) upon the direction of the donor and in accordance with this subsection (2)(b):

(i) The "scholarship account," whose principal may be invaded, and from which scholarships must be disbursed for baccalaureate programs beginning no later than December 1, 2011, if, by that date, state matching funds in the amount of five million dollars or more have been received. Thereafter, scholarships shall be disbursed on an annual basis beginning no later than May 1, 2012, and every October 1st thereafter;

(ii) The "student support pathways account," whose principal may be invaded, and from which scholarships may be disbursed for professional-technical certificate or degree programs in the fiscal year following appropriations of state matching funds. Thereafter, scholarships shall be disbursed on an annual basis;

(iii) The "advanced degrees pathways account," whose principal may be invaded, and from which scholarships may be disbursed for eligible advanced degree programs in the fiscal year following appropriations of state matching funds. Thereafter, scholarships shall be disbursed on an annual basis;

(iv) The "endowment account," from which scholarship moneys may be disbursed for baccalaureate programs from earnings only in years when:

(A) The state match has been made into both the scholarship and the endowment account; and

(B) The state appropriations for the Washington college grant program under chapter 28B.92 RCW meet or exceed state appropriations for the state need grant made in the 2011-2013 biennium, adjusted for inflation, and eligibility for Washington college grant recipients is at least seventy percent of state median family income;

(v) An amount equal to at least fifty percent of all grants and contributions must be deposited into the scholarship account until such time as twenty million dollars have been deposited into the scholarship account, after which time the private donors may designate whether their contributions must be deposited to the scholarship account, the student support pathways account, the advanced degrees pathways account, or the endowment account. The board and the

program administrator must work to maximize private sector contributions to these accounts to maintain a robust scholarship program while simultaneously building the endowment, and to determine the division between the accounts in the case of undesignated grants and contributions, taking into account the need for a long-term funding mechanism and the short-term needs of families and students in Washington. The first five million dollars in state match, as provided in RCW 28B.145.040, shall be deposited into the scholarship account and thereafter the state match shall be deposited into the specified accounts created in this subsection (2)(b) in equal proportion to the private funds deposited in each account, except that no more than ~~((one million dollars))~~ \$5,000,000 in state match shall be deposited into the advanced degrees pathways account in a single fiscal biennium; and

(vi) Once moneys in the opportunity scholarship match transfer account are subject to an agreement under RCW 28B.145.050(5) and are deposited in the scholarship account, the student support pathways account, the advanced degrees pathways account, or the endowment account under this section, the state acts in a fiduciary rather than ownership capacity with regard to those assets. Assets in the scholarship account, the student support pathways account, the advanced degrees pathways account, and the endowment account are not considered state money, common cash, or revenue to the state;

(c) Provide proof of receipt of grants and contributions from private sources to the council, identifying the amounts received by name of private source and date, and whether the amounts received were deposited into the scholarship account, the student support pathways account, the advanced degrees pathways account, or the endowment account;

(d) In consultation with the council and the state board for community and technical colleges, make an assessment of the reasonable annual eligible expenses associated with eligible education programs and eligible advanced degree programs identified by the board;

(e) Determine the dollar difference between tuition fees charged by institutions of higher education in the 2008-09 academic year and the academic year for which an opportunity scholarship is being distributed;

(f) Develop and implement an application, selection, and notification process for awarding opportunity scholarships;

(g) Ensure that if the private source is from a federally recognized Indian tribe, municipality, or county, an amount at least equal to the value of the private source plus the state match is awarded to participants within that federally recognized Indian tribe, municipality, or county according to the federally recognized Indian tribe's, municipality's, or county's program rules;

(h) Determine the annual amount of the opportunity scholarship for each selected participant. The annual amount shall be at least one thousand dollars or the amount determined under (e) of this subsection, but may be increased on an income-based, sliding scale basis up to the amount necessary to cover all reasonable annual eligible expenses as assessed pursuant to (d) of this subsection, or to encourage participation in professional-technical certificate programs, professional-technical degree programs, baccalaureate degree programs, or eligible advanced degree programs identified by the board;

(i) Distribute scholarship funds to selected participants. Once awarded, and to the extent funds are available for distribution, an opportunity scholarship shall

be automatically renewed as long as the participant annually submits documentation of filing both a free application for federal student aid (FAFSA) and for available federal education tax credits including, but not limited to, the American opportunity tax credit, or if ineligible to apply for federal student aid, the participant annually submits documentation of filing a state financial aid application as approved by the office of student financial assistance; and until the participant withdraws from or is no longer attending the program, completes the program, or has taken the credit or clock hour equivalent of one hundred twenty-five percent of the published length of time of the participant's program, whichever occurs first;

(j) Notify institutions of scholarship recipients who will attend their institutions and inform them of the terms of the students' eligibility; and

(k) For participants enrolled in an eligible advanced degree program, document each participant's employment following graduation.

(3) With respect to the opportunity expansion program, the program administrator shall:

(a) Assist the board in developing and implementing an application, selection, and notification process for making opportunity expansion awards; and

(b) Solicit and accept grants and contributions from private sources for opportunity expansion awards.

Sec. 6. RCW 43.79.195 and 2020 c 2 s 2 are each amended to read as follows:

(1) The workforce education investment account is created in the state treasury. All revenues from the workforce investment surcharge created in RCW 82.04.299 and those revenues as specified under RCW 82.04.290(2)(c) must be deposited directly into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for higher education programs, higher education operations, higher education compensation, ~~((and))~~ state-funded student aid programs, and workforce development including career connected learning as defined by RCW 28C.30.020. ~~((For the 2019-2021 biennium, expenditures from the account may be used for kindergarten through twelfth grade if used for career connected learning as provided for in chapter 406, Laws of 2019.))~~

(2) Expenditures from the workforce education investment account must be used to supplement, not supplant, other federal, state, and local funding for higher education.

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, 2021, in the omnibus appropriations act, this act is null and void.

Passed by the House April 14, 2021.

Passed by the Senate April 10, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 171

[Second Substitute Senate Bill 5000]

HYDROGEN FUEL CELL ELECTRIC VEHICLES—SALES AND USE TAX EXEMPTION

AN ACT Relating to hydrogen fuel cell electric vehicles; adding a new section to chapter 82.08 RCW; adding a new section to chapter 82.12 RCW; creating a new section; providing an effective date; and providing expiration dates.

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

NEW SECTION. Sec. 1. This section is the tax preference performance statement for the tax preferences contained in sections 2 and 3, chapter . . ., Laws of 2021 (sections 2 and 3 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 hydrogen fuel cell electric vehicles in Washington as another way of promoting clean alternative fuel vehicle adoption in the state. It is the legislature's intent to establish an eight-year pilot tax incentive program for fuel cell electric vehicles by creating a temporary partial sales and use tax exemption on fuel cell electric vehicles in order to reduce the price charged to customers and to evaluate the feasibility of wider adoption of the use of fuel cell electric technology in transportation.

(3) Since the tax incentive created in sections 2 and 3 of this act is limited to eight years, the joint legislative audit and review committee must, within the committee's appropriations, evaluate the effectiveness of this tax incentive on the number of hydrogen fuel cell vehicles titled in the state by November 1, 2028.

(4) The department of licensing and the department of revenue must, within the departments' respective appropriations, 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. 2. A new section is added to chapter 82.08 RCW to read as follows:

(1)(a) Subject to the limitations in this subsection, beginning July 1, 2022, with sales made or lease agreements signed on or after this date until the expiration of this section, fifty percent of the tax levied by RCW 82.08.020 does not apply to sales or leases of new electric passenger cars, light duty trucks, and medium duty passenger vehicles, that are powered by a fuel cell.

(b)(i) By the end of the fifth working day of each month, until the expiration of the exemption as described in (c) of this subsection, the department must determine the cumulative number of vehicles that have claimed the exemption as described in (a) of this subsection.

(ii) The department of licensing must collect and provide, upon request, information in a form or manner as required by the department to determine the number of exemptions that have been claimed.

(c) The exemption under this section expires after the last day of the calendar month immediately following the month the department determines that the total number of vehicles exempt under (a) of this subsection reaches 650. All leased vehicles that qualified for the exemption before the expiration of the exemption must continue to receive the exemption as described under (a) of this subsection on lease payments due through the remainder of the lease.

(d) The department must provide notification on its website monthly on the amount of exemptions that have been applied for, the amount issued, and the amount remaining before the limit described in (c) of this subsection has been reached, and, once that limit has been reached, the date the exemption expires pursuant to (c) of this subsection.

(e) A person may not claim the exemption under this subsection if the person claims the exemption under RCW 82.08.9999 or 82.12.9999.

(f) The per vehicle exemption must be based on the sales price for purchased vehicles and fair market value at the inception of the lease for leased vehicles.

(2)(a) Subject to the limitations in this subsection (2), beginning July 1, 2022, with sales made or lease agreements signed on or after this date until the expiration of this section, the entire tax levied by RCW 82.08.020 does not apply to the sale or lease of used electric passenger cars, light duty trucks, and medium duty passenger vehicles, that are powered by a fuel cell.

(b) The per vehicle exemption must be based on the sales price for purchased vehicles and fair market value at the inception of the lease for leased vehicles. However, the maximum value amount eligible for the exemption under (a) of this subsection is the lesser of either sixteen thousand dollars or the fair market value of the vehicle.

(c) A person may not claim the exemption under this subsection (2) if the person claims the exemption under RCW 82.08.9999 or 82.12.9999.

(3)(a) For qualifying vehicles sold by a person licensed to do business in the state of Washington, the seller must keep records necessary for the department to verify eligibility under this section. The seller reporting 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.

(b) For vehicles purchased from (i) a seller that is not licensed to do business in the state of Washington, or (ii) a private party, the buyer must keep records necessary for the department to verify eligibility under this section. The buyer 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; date of sale; sales price; and the total amount qualifying for the incentive claimed for each vehicle. This information must be provided in a form and manner prescribed by the department.

(4)(a) The department of licensing must maintain and publish a list of all vehicle models qualifying for the tax exemptions under this section and section 3 of this act until the expiration of this section, and is authorized to issue final rulings on vehicle model qualification for these criteria.

(b) The department of revenue retains responsibility for determining whether a vehicle meets the applicable qualifying criterion under subsections (1) and (2) of this section.

(5) On the last day of July, October, January, and April 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 fiscal quarter but for the exemptions 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.

(6) By the last day of August 2023, and annually 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 fuel cell electric vehicles that qualified for the exemptions under this section and section 3 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 3 of this act; and estimates of the future costs of leased vehicles that qualified for the exemptions under this section and section 3 of this act.

(7)(a) Sales of vehicles delivered to the buyer after the expiration of this section, or leased vehicles for which the lease agreement was signed after the expiration of this section, do not qualify for the exemptions under this section.

(b) All leased vehicles that qualified for the exemption under this section before the expiration of this section must continue to receive the exemption on any lease payments due through the remainder of the lease.

(8) For the purposes of this section:

(a) "Fair market value" has the same meaning as "value of the article used" in RCW 82.12.010.

(b) "Fuel cell" means a technology that uses an electrochemical reaction to generate electric energy by combining atoms of hydrogen and oxygen in the presence of a catalyst.

(c) "New vehicle" has the same meaning as "new motor vehicle" in RCW 46.04.358.

(d) "Selling price" and "sales price" have the same meaning as in RCW 82.08.010.

(e) "Used vehicle" has the same meaning as in RCW 46.04.660.

(9) This section expires June 30, 2029.

NEW SECTION. Sec. 3. A new section is added to chapter 82.12 RCW to read as follows:

(1) Subject to the limitations in this subsection and section 2(1)(c) of this act, beginning July 1, 2022, with sales made or lease agreements signed on or after this date until the expiration of this section, fifty percent of the tax levied by RCW 82.12.020 does not apply to sales or leases of new electric passenger cars,

light duty trucks, and medium duty passenger vehicles, that are powered by a fuel cell.

(2)(a) Subject to the limitations in this subsection (2), beginning July 1, 2022, with sales made or lease agreements signed on or after this date until the expiration of this section, the entire tax levied by RCW 82.12.020 does not apply to the sale or lease of used electric passenger cars, light duty trucks, and medium duty passenger vehicles, that are powered by a fuel cell.

(b) The per vehicle exemption must be based on the sales price for purchased vehicles and fair market value at the inception of the lease for leased vehicles. However, the maximum value amount eligible for the exemption under (a) of this subsection is the lesser of either sixteen thousand dollars or the fair market value of the vehicle.

(c) A person may not claim the exemption under this subsection (2) if the person claims the exemption under RCW 82.08.9999 or 82.12.9999.

(3) The buyer must keep records necessary for the department to verify eligibility under this section. The buyer 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.

(4) On the last day of July, October, January, and April 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 fiscal quarter but for the exemptions provided in this section. Information provided by the department to the state treasurer must be based on the best available data.

(5)(a) Sales of vehicles delivered to the buyer after the expiration of this section, or leased vehicles for which the lease agreement was signed after the expiration of this section, do not qualify for the exemptions under this section.

(b) All leased vehicles that qualified for the exemption under this section before the expiration of this section must continue to receive the exemption on any lease payments due through the remainder of the lease.

(6) The definitions in section 2 of this act apply to this section.

(7) This section expires June 30, 2029.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act take effect July 1, 2022.

Passed by the Senate March 3, 2021.

Passed by the House April 10, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 172

[Substitute Senate Bill 5003]

LIVING ORGAN DONORS—INSURANCE

AN ACT Relating to enacting the living donor act; and adding a new section to chapter 48.02 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 48.02 RCW to read as follows:

(1) Notwithstanding any other provision of law, all insurers, fraternal benefit societies, health carriers including disability insurers, health maintenance organizations, and health care service contractors, and limited health care service contractors may not:

(a) Decline or limit coverage of a person under a policy or contract solely due to the status of the person as a living organ donor;

(b) Preclude a person from donating all or part of an organ as a condition of receiving or continuing to receive a policy or contract; or

(c) Otherwise discriminate in the offering, issuance, cancellation, amount of coverage, price, or any other condition of a policy or contract for a person based solely and without any additional actuarial risks upon the status of the person as a living organ donor. Except as provided in RCW 48.43.0128, 48.44.220, or 48.46.370, this subsection does not prohibit fair discrimination on the basis of sex, or marital status, or the presence of any sensory, mental, or physical handicap when bona fide statistical differences in risk or exposure have been substantiated.

(2) The commissioner shall make educational materials available to the health plans and the public on the access of living organ donors to insurance.

(3) The commissioner may adopt rules to implement this section.

(4) For purposes of this section, "living organ donor" means an individual who has donated all or part of an organ and is not deceased.

Passed by the Senate April 14, 2021.

Passed by the House April 10, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 173

[Substitute Senate Bill 5013]

LOCAL REDISTRICTING—DEADLINES

AN ACT Relating to local redistricting deadlines; amending RCW 29A.76.010 and 29A.76.010; reenacting and amending RCW 29A.92.050 and 29A.92.050; 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 29A.76.010 and 2018 c 301 s 8 are each amended to read as follows:

(1) It is the responsibility of each county, municipal corporation, and special purpose district with a governing body comprised of internal director, council, or commissioner districts not based on statutorily required land ownership criteria

to periodically redistrict its governmental unit, based on population information from the most recent federal decennial census.

(2) Within forty-five days after receipt of federal decennial census information applicable to a specific local area, the commission established in RCW 44.05.030 shall forward the census information to each municipal corporation, county, and district charged with redistricting under this section.

(3) Except as otherwise provided in chapter 301, Laws of 2018, (~~no later than eight months after its receipt of federal decennial census data,~~) the governing body of the municipal corporation, county, or district shall prepare a plan for redistricting its internal or director districts:

(a) By December 31, 2021, if the jurisdiction is scheduled to elect members to its governing body in 2022; or

(b) By November 15, 2022, if the jurisdiction is not scheduled to elect members to its governing body in 2022.

(4) The plan shall be consistent with the following criteria:

(a) Each internal director, council, or commissioner district shall be as nearly equal in population as possible to each and every other such district comprising the municipal corporation, county, or special purpose district.

(b) Each district shall be as compact as possible.

(c) Each district shall consist of geographically contiguous area.

(d) Population data may not be used for purposes of favoring or disfavoring any racial group or political party.

(e) To the extent feasible and if not inconsistent with the basic enabling legislation for the municipal corporation, county, or district, the district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.

(5) During the adoption of its plan, the municipal corporation, county, or district shall ensure that full and reasonable public notice of its actions is provided. Before adopting the plan, the municipal corporation, county, or district must:

(a) Publish the draft plan and hold a meeting, including notice and comment, within ten days of publishing the draft plan and at least one week before adopting the plan; and

(b) Amend the draft as necessary after receiving public comments and resubmit any amended draft plan for additional written public comment at least one week before adopting the plan.

(6)(a) Any registered voter residing in an area affected by the redistricting plan may request review of the adopted local plan by the superior court of the county in which he or she resides, within fifteen days of the plan's adoption. Any request for review must specify the reason or reasons alleged why the local plan is not consistent with the applicable redistricting criteria. The municipal corporation, county, or district may be joined as respondent. The superior court shall thereupon review the challenged plan for compliance with the applicable redistricting criteria set out in subsection (4) of this section.

(b) If the superior court finds the plan to be consistent with the requirements of this section, the plan shall take effect immediately.

(c) If the superior court determines the plan does not meet the requirements of this section, in whole or in part, it shall remand the plan for further or corrective action within a specified and reasonable time period.

(d) If the superior court finds that any request for review is frivolous or has been filed solely for purposes of harassment or delay, it may impose appropriate sanctions on the party requesting review, including payment of attorneys' fees and costs to the respondent municipal corporation, county, or district.

Sec. 2. RCW 29A.76.010 and 2018 c 301 s 8 are each amended to read as follows:

(1) It is the responsibility of each county, municipal corporation, and special purpose district with a governing body comprised of internal director, council, or commissioner districts not based on statutorily required land ownership criteria to periodically redistrict its governmental unit, based on population information from the most recent federal decennial census.

(2) Within forty-five days after receipt of federal decennial census information applicable to a specific local area, the commission established in RCW 44.05.030 shall forward the census information to each municipal corporation, county, and district charged with redistricting under this section.

(3) Except as otherwise provided in chapter 301, Laws of 2018, no later than ~~((eight months after its receipt of federal decennial census data))~~ November 15th of each year ending in one, the governing body of the municipal corporation, county, or district shall prepare a plan for redistricting its internal or director districts.

(4) The plan shall be consistent with the following criteria:

(a) Each internal director, council, or commissioner district shall be as nearly equal in population as possible to each and every other such district comprising the municipal corporation, county, or special purpose district.

(b) Each district shall be as compact as possible.

(c) Each district shall consist of geographically contiguous area.

(d) Population data may not be used for purposes of favoring or disfavoring any racial group or political party.

(e) To the extent feasible and if not inconsistent with the basic enabling legislation for the municipal corporation, county, or district, the district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.

(5) During the adoption of its plan, the municipal corporation, county, or district shall ensure that full and reasonable public notice of its actions is provided. Before adopting the plan, the municipal corporation, county, or district must:

(a) Publish the draft plan and hold a meeting, including notice and comment, within ten days of publishing the draft plan and at least one week before adopting the plan; and

(b) Amend the draft as necessary after receiving public comments and resubmit any amended draft plan for additional written public comment at least one week before adopting the plan.

(6)(a) Any registered voter residing in an area affected by the redistricting plan may request review of the adopted local plan by the superior court of the county in which he or she resides, within fifteen days of the plan's adoption. Any

request for review must specify the reason or reasons alleged why the local plan is not consistent with the applicable redistricting criteria. The municipal corporation, county, or district may be joined as respondent. The superior court shall thereupon review the challenged plan for compliance with the applicable redistricting criteria set out in subsection (4) of this section.

(b) If the superior court finds the plan to be consistent with the requirements of this section, the plan shall take effect immediately.

(c) If the superior court determines the plan does not meet the requirements of this section, in whole or in part, it shall remand the plan for further or corrective action within a specified and reasonable time period.

(d) If the superior court finds that any request for review is frivolous or has been filed solely for purposes of harassment or delay, it may impose appropriate sanctions on the party requesting review, including payment of attorneys' fees and costs to the respondent municipal corporation, county, or district.

Sec. 3. RCW 29A.92.050 and 2019 c 454 s 1 and 2019 c 64 s 8 are each reenacted and amended to read as follows:

(1)(a) Prior to the adoption of its proposed plan, the political subdivision must provide public notice to residents of the subdivision about the proposed remedy to a potential violation of RCW 29A.92.020. If a significant segment of the residents of the subdivision have limited English proficiency and speaks a language other than English, the political subdivision must:

(i) Provide accurate written and verbal notice of the proposed remedy in languages that diverse residents of the political subdivision can understand, as indicated by demographic data; and

(ii) Air radio or television public service announcements describing the proposed remedy broadcast in the languages that diverse residents of the political subdivision can understand, as indicated by demographic data.

(b) The political subdivision shall hold at least one public hearing on the proposed plan at least one week before adoption.

(c) For purposes of this section, "significant segment of the community" means five percent or more of residents, or five hundred or more residents, whichever is fewer, residing in the political subdivision.

(2)(a) If the political subdivision invokes its authority under RCW 29A.92.040 and the plan is adopted during the period of time between the first Tuesday after the first Monday of November and on or before January 15th of the following year, the political subdivision shall order new elections to occur at the next succeeding general election.

(b) If the political subdivision invokes its authority under RCW 29A.92.040 and the plan is adopted during the period of time between January 16th and on or before the first Monday of November, the next election will occur as scheduled and organized under the current electoral system, but the political subdivision shall order new elections to occur pursuant to the remedy at the general election the following calendar year.

(3) If a political subdivision implements a district-based election system under RCW 29A.92.040(2), the plan shall be consistent with the following criteria:

(a) Each district shall be as reasonably equal in population as possible to each and every other such district comprising the political subdivision.

(b) Each district shall be reasonably compact.

(c) Each district shall consist of geographically contiguous area.

(d) To the extent feasible, the district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.

(e) District boundaries may not be drawn or maintained in a manner that creates or perpetuates the dilution of the votes of the members of a protected class or classes.

(f) All positions on the governing body must stand for election at the next election for the governing body, scheduled pursuant to subsection (2) of this section. The governing body may subsequently choose to stagger the terms of its positions.

(4) Within forty-five days after receipt of federal decennial census information applicable to a specific local area, the commission established in RCW 44.05.030 shall forward the census information to each political subdivision.

(5) ~~(No later than eight months after its receipt of federal decennial census data, the)~~ The governing body of the political subdivision that had previously invoked its authority under RCW 29A.92.040 to implement a district-based election system, or that was previously charged with redistricting under RCW 29A.92.110, shall prepare a plan for redistricting its districts, pursuant to RCW 29A.76.010, and in a manner consistent with this chapter;

(a) By December 31, 2021, if the political subdivision is scheduled to elect members to its governing body in 2022; or

(b) By November 15, 2022, if the political subdivision is not scheduled to elect members to its governing body in 2022.

Sec. 4. RCW 29A.92.050 and 2019 c 454 s 1 and 2019 c 64 s 8 are each reenacted and amended to read as follows:

(1)(a) Prior to the adoption of its proposed plan, the political subdivision must provide public notice to residents of the subdivision about the proposed remedy to a potential violation of RCW 29A.92.020. If a significant segment of the residents of the subdivision have limited English proficiency and speaks a language other than English, the political subdivision must:

(i) Provide accurate written and verbal notice of the proposed remedy in languages that diverse residents of the political subdivision can understand, as indicated by demographic data; and

(ii) Air radio or television public service announcements describing the proposed remedy broadcast in the languages that diverse residents of the political subdivision can understand, as indicated by demographic data.

(b) The political subdivision shall hold at least one public hearing on the proposed plan at least one week before adoption.

(c) For purposes of this section, "significant segment of the community" means five percent or more of residents, or five hundred or more residents, whichever is fewer, residing in the political subdivision.

(2)(a) If the political subdivision invokes its authority under RCW 29A.92.040 and the plan is adopted during the period of time between the first Tuesday after the first Monday of November and on or before January 15th of the following year, the political subdivision shall order new elections to occur at the next succeeding general election.

(b) If the political subdivision invokes its authority under RCW 29A.92.040 and the plan is adopted during the period of time between January 16th and on or before the first Monday of November, the next election will occur as scheduled and organized under the current electoral system, but the political subdivision shall order new elections to occur pursuant to the remedy at the general election the following calendar year.

(3) If a political subdivision implements a district-based election system under RCW 29A.92.040(2), the plan shall be consistent with the following criteria:

(a) Each district shall be as reasonably equal in population as possible to each and every other such district comprising the political subdivision.

(b) Each district shall be reasonably compact.

(c) Each district shall consist of geographically contiguous area.

(d) To the extent feasible, the district boundaries shall coincide with existing recognized natural boundaries and shall, to the extent possible, preserve existing communities of related and mutual interest.

(e) District boundaries may not be drawn or maintained in a manner that creates or perpetuates the dilution of the votes of the members of a protected class or classes.

(f) All positions on the governing body must stand for election at the next election for the governing body, scheduled pursuant to subsection (2) of this section. The governing body may subsequently choose to stagger the terms of its positions.

(4) Within forty-five days after receipt of federal decennial census information applicable to a specific local area, the commission established in RCW 44.05.030 shall forward the census information to each political subdivision.

(5) No later than (~~eight months after its receipt of federal decennial census data~~) November 15th of each year ending in one, the governing body of the political subdivision that had previously invoked its authority under RCW 29A.92.040 to implement a district-based election system, or that was previously charged with redistricting under RCW 29A.92.110, shall prepare a plan for redistricting its districts, pursuant to RCW 29A.76.010, and in a manner consistent with this chapter.

NEW SECTION. Sec. 5. Sections 1 and 3 of this act expire January 1, 2023.

NEW SECTION. Sec. 6. Sections 2 and 4 of this act take effect January 1, 2023.

NEW SECTION. Sec. 7. Sections 1 and 3 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

Passed by the Senate April 14, 2021.

Passed by the House March 24, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 174

[Substitute Senate Bill 5030]

SCHOOL DISTRICTS—COMPREHENSIVE SCHOOL COUNSELING PROGRAMS

AN ACT Relating to developing comprehensive school counseling programs; adding new sections to chapter 28A.320 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) The legislature recognizes that certificated school counselors are uniquely qualified to address the developmental needs of all students through a comprehensive school counseling program. School counselors play a critical role in maximizing K-12 student outcomes, including those related to attendance, academic achievement, high school graduation, postsecondary readiness, and social-emotional development. The legislature finds that school counselors play an especially unique role in the lives of students from underserved backgrounds, particularly students of color, students with disabilities, English language learners, and students living in poverty, who, according to research, are more likely to seek out their school counselor for academic, mental health, or postsecondary planning needs.

(2) The legislature also recognizes research indicating that lower counselor to student ratios enable counselors to work more closely with students and address their unique needs, and that school counselors should be able to use their time to provide direct and indirect services to students as described in a comprehensive school counseling program grounded in research.

NEW SECTION. Sec. 2. A new section is added to chapter 28A.320 RCW to read as follows:

By the beginning of the 2022-23 school year each school district shall develop and implement a written plan for a comprehensive school counseling program that is based on regularly updated standards developed by a national organization representing school counselors. The written plan must:

(1) Establish a comprehensive school counseling program that uses state and nationally recognized counselor frameworks and is systemically aligned to state learning standards;

(2) Provide a process for identifying student needs through a multilevel school data review and analysis that includes, at a minimum, use-of-time data, program results data, and data regarding communication with administrators, parents, students, and stakeholders;

(3) Explain how direct and indirect services will be delivered through the comprehensive school counseling program; and

(4) Establish an annual review and assessment process for the comprehensive school counseling program that includes building administrators and stakeholders.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.320 RCW to read as follows:

(1) The comprehensive school counseling program required by section 2 of this act must be implemented by school counselors or other educational staff associates for the purpose of guiding students in academic pursuits, career planning, and social-emotional learning.

(2) School counselors or other educational staff associates assigned to implement comprehensive school counseling programs must allocate at least 80

percent of their work time providing direct and indirect services to benefit students, as aligned with standards developed by a national organization representing school counselors. Tasks such as coordinating and monitoring student testing, supervising students at lunch and recess, and assuming the duties of other noncounseling staff are not direct or indirect services.

(3) For purposes of this section:

(a) "Direct services" are in-person interactions between school counselors or other educational staff associates assigned to implement comprehensive school counseling programs and students that help students improve achievement, attendance, and discipline. Examples include, but are not limited to, instruction, appraisal, advisement, and counseling.

(b) "Indirect services" are provided on behalf of students as a result of interactions with others by school counselors or educational staff associates assigned to implement comprehensive school counseling programs that allow school counselors or educational staff associates to enhance student achievement and promote equity and access for all students. Examples include, but are not limited to, collaboration, consultation, and referrals.

(c) "Work time" means the portion of an employee's contracted hours for which they are contracted to perform the duties of a school counselor or other educational staff associate assignment.

NEW SECTION. Sec. 4. A new section is added to chapter 28A.320 RCW to read as follows:

(1) By December 1, 2021, the office of the superintendent of public instruction must develop and distribute to school districts guidance for the implementation of sections 2 and 3 of this act. In meeting the requirements of this subsection (1), the office of the superintendent of public instruction shall consult with small school districts and develop guidance for small districts that is appropriate for the staffing resources, school counselor to student ratios, and range of duties performed by school counselors and educational staff associates in small school districts.

(2) Prior to the 2022-23 school year, each school district board of directors must, within existing funds, adopt a transition plan for developing and implementing a comprehensive school counseling program plan.

(3) This section expires June 30, 2023.

Passed by the Senate April 14, 2021.

Passed by the House April 7, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

CHAPTER 175

[Senate Bill 5031]

COMMUNITY AVIATION REVITALIZATION—LOAN PROGRAM

AN ACT Relating to a community aviation revitalization loan program; amending RCW 43.79A.040 and 47.68.020; reenacting and amending 2019 c 413 s 7037 (uncodified); adding new sections to chapter 47.68 RCW; creating a new section; providing an effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that providing additional funding mechanisms for public use airports that primarily support general aviation activities is in the best interest of the state. The legislature further finds it is in the best interest of the state to have a healthy and strong public use airport system for emergency response and enhanced economic opportunities. The legislature further finds that a revolving loan program would benefit smaller airport development while providing a self-sustaining resource.

NEW SECTION. Sec. 2. (1) The department of transportation must convene a community aviation revitalization board to exercise the powers granted under this chapter.

(2) The board must consist of a representative from the department of transportation's aviation division, the public works board, and a nonlegislative member of the community economic revitalization board. The board must also consist of the following members appointed by the secretary of transportation: One port district official, one county official, one city official, one representative of airport managers, and one representative of a general aviation pilots organization within Washington that has an active membership and established location, chapter, or appointed representative within Washington. The appointive members must initially be appointed to terms as follows: Two members for two-year terms, and three members for three-year terms which must include the chair. Thereafter, each succeeding term must be for three years. The chair of the board must be selected by the secretary of transportation. The members of the board must elect one of their members to serve as vice chair.

(3) Management services, including fiscal and contract services, must be provided by the department of transportation to assist the board in implementing this chapter.

(4) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the secretary of transportation must fill the vacancy for the unexpired term. Members of the board may be removed for malfeasance or misfeasance in office, upon specific written charges by the secretary of transportation, under chapter 34.05 RCW.

(5) A member appointed by the secretary of transportation may not be absent from more than fifty percent of the regularly scheduled meetings in any one calendar year. Any member who exceeds this absence limitation is deemed to have withdrawn from the office and may be replaced by the secretary of transportation.

(6) A majority of members currently appointed constitutes a quorum.

(7) The board must meet three times a year or as deemed necessary by the department of transportation.

(8) Staff support to the board must be provided by the department of transportation as needed.

NEW SECTION. Sec. 3. In addition to other applicable provisions of law pertaining to conflicts of interest of public officials, any community aviation revitalization board member, appointive or otherwise, may not participate in any decision on any board contract in which the board member has any interests, direct or indirect, with any firm, partnership, corporation, or association that would be the recipient of any aid under this chapter. If such participation occurs, the board must void the transaction and the involved member is subject to

further sanctions as provided by law. The board must adopt a code of ethics for its members, which must be designed to protect the state and its citizens from any unethical conduct by the board.

NEW SECTION. **Sec. 4.** The community aviation revitalization board may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) Adopt an official seal and alter the seal at its pleasure;

(3) Utilize the services of other governmental agencies;

(4) Accept from any federal agency loans or grants for the planning or financing of any project and enter into an agreement with the agency respecting the loans or grants;

(5) Conduct examinations and investigations and take testimony at public hearings of any matter material for its information that will assist in determinations related to the exercise of the board's lawful powers;

(6) Accept any gifts, grants, loans of funds, property, or financial or other aid in any form from any other source on any terms and conditions that are not in conflict with this chapter;

(7) Enter into agreements or other transactions with and accept grants and the cooperation of any governmental agency in furtherance of this chapter;

(8) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter; and

(9) Perform all acts and things necessary or convenient to carry out the powers expressly granted or implied under this chapter.

NEW SECTION. **Sec. 5.** (1) The community aviation revitalization board may make direct loans to airport sponsors of public use airports in the state for the purpose of airport improvements that primarily support general aviation activities. The board may provide loans for the purpose of airport improvements only if the state is receiving commensurate public benefit, which must include, as a condition of the loan, a commitment to provide public access to the airport for a period of time equivalent to one and one-half times the term of the loan. For purposes of this subsection, "public use airports" means all public use airports not listed as having more than seventy-five thousand annual commercial air service passenger enplanements as published by the federal aviation administration.

(2) An application for loan funds under this section must be made in the form and manner as the board may prescribe. When evaluating loan applications, the board must prioritize applications that provide conclusive justification that completion of the loan application project will create revenue generating opportunities. The board is not limited to, but must also use, the following expected outcome conditions when evaluating loan applications:

(a) A specific private development or expansion is ready to occur and will occur only if the aviation facility improvement is made;

(b) The loan application project results in the creation of jobs or private sector capital investment as determined by the board;

(c) The loan application project improves opportunities for the successful maintenance, operation, or expansion of an airport or adjacent airport business park;

(d) The loan application project results in the creation or retention of long-term economic opportunities; and

(e) The loan application project results in leveraging additional federal funding for an airport.

(3)(a) If the board chooses to require a local match, the board must develop guidelines for local participation and allowable match and activities.

(b) An application must:

(i) Be supported by the port district, city, or county in which the project is located; or

(ii) Clearly identify the source of funds intended to repay the loan.

NEW SECTION. Sec. 6. The public use general aviation airport loan program, when authorized by the community aviation revitalization board, is subject to the following conditions:

(1) The moneys in the public use general aviation airport loan revolving account created in section 8 of this act must be used only to fulfill commitments arising from loans authorized in this chapter. The total outstanding amount that the board must dispense at any time pursuant to this section must not exceed the moneys available from the account.

(2) On contracts made for public use general aviation airport loans, the board must determine the interest rate that loans must bear. The interest rate must not exceed the amount needed to cover the administrative expenses of the board and the loan program. The board may provide reasonable terms and conditions for the repayment of loans, with the repayment of a loan to begin no later than three years after the award date of the loan. The loans must not exceed twenty years in duration.

(3) The repayment of any loan made from the public use general aviation airport loan revolving account under the contracts for aviation loans must be paid into the public use general aviation airport loan revolving account.

(4) Loans issued to airport sponsors of nongovernmental airports must only be made from repaid loan funds deposited into the public use general aviation airport loan revolving account.

NEW SECTION. Sec. 7. To enhance competition for loans and the quality of projects for which loans are sought, the community aviation revitalization board must take such reasonable measures as are necessary to familiarize government officials and members of the public with this chapter, particularly the board's authority to make loans.

Sec. 8. 2019 c 413 s 7037 (uncodified) is reenacted and amended to read as follows:

The public use general aviation airport loan revolving account is created in the custody of the state treasurer. All receipts from moneys collected under sections 6023 and 4005, chapter 413, Laws of 2019 and sections 1 through 7 of this act must be deposited into the account. Expenditures from the account may be used only for the purposes described in sections 6023 and 4005, chapter 413, Laws of 2019 and sections 5 and 6 of this act. Only the community aviation revitalization board or the board'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. 9. The community aviation revitalization board and the department of transportation must keep proper records of accounts, which are subject to audit by the state auditor.

Sec. 10. RCW 43.79A.040 and 2020 c 18 s 2 are each 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 county road administration board emergency loan 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 educator conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the Washington history day account, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the low-income home rehabilitation revolving loan program account, the multiagency permitting team account, the northeast

Washington wolf-livestock management account, the produce railcar pool account, the public use general aviation airport loan revolving account, the regional transportation investment district account, the rural rehabilitation account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state library-archives building account, the reduced cigarette ignition propensity account, the center for deaf and hard of hearing youth account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, the school employees' benefits board insurance reserve fund, the public employees' and retirees' insurance account, the school employees' insurance account, the long-term services and supports trust account, the radiation perpetual maintenance fund, the Indian health improvement reinvestment account, the department of licensing tuition recovery trust fund, the student achievement council tuition recovery trust fund, the tuition recovery trust fund, the industrial insurance premium refund account, the mobile home park relocation fund, the natural resources deposit fund, the Washington state health insurance pool account, the federal forest revolving account, and the library operations account.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advance right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

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

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

Sec. 11. RCW 47.68.020 and 1993 c 208 s 4 are each amended to read as follows:

As used in this chapter, unless the context clearly indicates otherwise:

(1) "Aeronautics" means the science and art of flight and including but not limited to transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

(2) "Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

(3) "Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or right-of-way, together with all airport buildings and facilities located thereon.

(4) "Department" means the state department of transportation.

(5) "Secretary" means the state secretary of transportation.

(6) "State" or "this state" means the state of Washington.

(7) "Air navigation facility" means any facility, other than one owned or operated by the United States, used in, available for use in, or designed for use in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(8) "Operation of aircraft" or "operate aircraft" means the use, navigation, or piloting of aircraft in the airspace over this state or upon any airport within this state.

(9) "Airman or airwoman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew in the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, airframes, propellers, or appliances, and any individual who serves in the capacity of aircraft dispatcher or air-traffic control tower operator; but does not include any individual employed outside the United States, or any individual employed by a manufacturer of aircraft, aircraft engines, airframes, propellers, or appliances to perform duties as inspector or mechanic in connection therewith, or any individual performing inspection or mechanical duties in connection with aircraft owned or operated by the person.

(10) "Aeronautics instructor" means any individual who for hire or reward engages in giving instruction or offering to give instruction in flying or ground subjects pertaining to aeronautics, but excludes any instructor in a public school, university, or institution of higher learning duly accredited and approved for carrying on collegiate work, who instructs in flying or ground subjects pertaining to aeronautics, while in the performance of his or her duties at such school, university, or institution.

(11) "Air school" means any person who advertises, represents, or holds out as giving or offering to give instruction in flying or ground subjects pertaining to aeronautics whether for or without hire or reward; but excludes any public school, university, or institution of higher learning duly accredited and approved for carrying on collegiate work.

(12) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(13) "Municipal" means pertaining to a municipality, and "municipality" means any county, city, town, authority, district, or other political subdivision or public corporation of this state.

(14) "Airport hazard" means any structure, object of natural growth, or use of land, which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.

(15) "State airway" means a route in the navigable airspace over and above the lands or waters of this state, designated by the department as a route suitable for air navigation.

(16) "Airport sponsor" means any public agency or private entity owning or leasing a public use airport.

(17) "Public agency" means any state, political subdivision of a state, tax-supported organization, or Indian tribe.

(18) "Public use airport" means any airport that is used for public, governmental, county, or municipal purposes for matters of public necessity.

NEW SECTION. Sec. 12. Sections 2 through 9 of this act are each added to chapter 47.68 RCW.

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 June 30, 2021.

Passed by the Senate March 4, 2021.

Passed by the House April 11, 2021.

Approved by the Governor May 3, 2021.

Filed in Office of Secretary of State May 3, 2021.

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 2021 session (67th Legislature), chapters 1 through 175, 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 24th day of May, 2021.

A handwritten signature in black ink, appearing to read "Kathleen Buchli". The signature is written in a cursive style with a large initial "K".

Kathleen Buchli
Code Reviser