

**SIXTY SEVENTH LEGISLATURE - REGULAR SESSION****NINETY SECOND DAY**

House Chamber, Olympia, Monday, April 12, 2021

The House was called to order at 1:00 p.m. by the Speaker (Representative Orwall presiding). The Clerk called the roll and a quorum was present.

The Speaker (Representative Orwall presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Representative Jesse Young, 26th Legislative District.

Reading of the Journal of the previous day was dispensed with and it was ordered to stand approved.

The Speaker (Representative Orwall presiding) called upon Representative Lovick to preside.

**RESOLUTION**

HOUSE RESOLUTION NO. 2021-4628, by Representatives Klippert, Graham, Dent, Abbarno, Orcutt, Barkis, Schmick, Walen, Dufault, Robertson, Chambers, Mosbrucker, Kraft, Eslick, Goehner, Sutherland, Hoff, Jacobsen, Klicker, MacEwen, Chapman, and Chandler

WHEREAS, We give thanks and express unwavering support for our law enforcement officers serving across Washington state. For generations, these brave men and women, unsung heroes, have and do risk their lives so we can all live in peace and security; and

WHEREAS, 24 hours a day, 7 days a week, dedicated law enforcement officers put on the badge and go to work as selfless public servants, answering the call to protect, working tirelessly as they serve to defend and maintain civil order in our communities, allowing our families to sleep peacefully each night; and

WHEREAS, Alongside these police officers are highly trained K9s that serve to enhance and improve public safety, suspect safety, officer safety, and community safety. We recognize too, our K9s and their devoted acts of public service and sacrifice. We salute them and their handlers for their steadfast determination safeguarding our democracy; and

WHEREAS, In times of real danger and despair, the first people we turn to and depend on are our law enforcement officers. In the most uncertain of situations, our law enforcement officers run straight towards all threats with bravery, often operating under extreme pressure with remarkable professionalism as they endure long shifts and complex circumstances. They see and deal with all facets of humanity and society, demonstrating uncommon self-control and shielding us from having to deal with such matters; and

WHEREAS, We remember former President Barack Obama who wrote a letter to the law enforcement

community in 2016 to address division and coming together, "Every day, you confront danger so it does not find our families . . . We recognize it, we respect it, we appreciate it, and we depend on you. . . . Time and again, you make the split-second decisions that could mean life or death for you and many others in harm's way;" and

WHEREAS, Law enforcement officers are our neighbors and live within all beloved communities. In uniform or not, they serve in many ways, showing generous acts of goodwill as part of their service to residents to build trust and relationships within neighborhoods, like the police officer who provided socks to a homeless man or the police officer who sat and spent time with a developmentally disabled teen on the side of the street;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State House of Representatives respect and show our deep and humble gratitude to law enforcement officers throughout Washington state. We sincerely thank you for wearing the badge and the uniform every day to preserve and protect our communities.

There being no objection, HOUSE RESOLUTION NO. 4628 was adopted.

**RESOLUTION**

HOUSE RESOLUTION NO. 2021-4629, by Representatives Macri, Cody, Simmons, Schmick, Santos, Orcutt, Fitzgibbon, Leavitt, and Ryu

WHEREAS, Since 1921, physical therapists have served patients in military and civilian sectors; and

WHEREAS, More than 10,000 physical therapists and physical therapist assistants are currently licensed in Washington; and

WHEREAS, Physical therapists and physical therapist assistants treat patients or clients in many settings, including hospitals, clinics, homes, schools, fitness facilities, skilled nursing facilities, military and veterans facilities, and employer-based settings; and

WHEREAS, Physical therapists and physical therapist assistants provide cost-effective proven therapy to improve movement, decrease pain, and reduce the need for opioid prescriptions; and

WHEREAS, Washington residents have been able to receive physical therapy services without referral since 1988; and

WHEREAS, Washington's three accredited doctor of physical therapy programs and six accredited physical therapist assistant programs are educating students to meet

the movement and functional needs of Washingtonians for the coming generations; and

WHEREAS, Physical therapists and physical therapist assistants have faced the challenge of the COVID-19 pandemic head on, treating the most vulnerable, building on their proud history of work in the polio pandemic, and playing an essential role in treating people who are beginning to recover from the most severe effects of the novel coronavirus, both during their time in the hospital and after they leave, for as long as it takes to improve function;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State House of Representatives recognize physical therapists and physical therapist assistants for their dedication to improving the health of society over the past 100 years; and further recognize that physical therapists and physical therapist assistants are essential partners in meeting the future health and wellness needs of our country.

There being no objection, HOUSE RESOLUTION NO. 4629 was adopted.

### RESOLUTION

HOUSE RESOLUTION NO. 2021-4630, by Representative Kraft

WHEREAS, President Ronald Reagan said, "We remember those who were called upon to give all a person can give, and we remember those who were prepared to make that sacrifice if it were demanded of them in the line of duty, though it never was. Most of all, we remember the devotion and gallantry with which all of them ennobled their nation as they became champions of a noble cause"; and

WHEREAS, The House of Representatives, on behalf of the people of Washington state, recognize and honor those who serve in all branches of the military: The Army, the Navy, the Marine Corps, the Air Force, the Coast Guard, and the National Guard for their courage, sacrifice, protection, and devotion; and

WHEREAS, We recognize and honor those who fought and served in the various wars throughout our country's history to protect and defend our freedoms and way of life, especially those in our lifetime: World War II, Korean War, Vietnam War, Gulf War, Iraq War, and Afghanistan War; and

WHEREAS, President Abraham Lincoln said, "Honor to the soldier and sailor everywhere, who bravely bears his country's cause. Honor, also, to the citizen who cares for his brother in the field and serves, as he best can, the same cause," we thank the Veteran Service Organizations for all they do, working to improve the lives of these great men and women who have done so much for our country and state while stretching every dollar and resource to enhance the lives of our Veterans and their families; and

WHEREAS, The Department of Veterans Affairs in our country and state strive to adhere to the highest standards of compassion, commitment, excellence, professionalism, integrity, accountability, and stewardship, we thank them for

all they do to assist our Veterans with Veteran benefits, transitioning to civilian life, education, home loans, primary health care services, mental health services, and other specialty services; and

WHEREAS, We thank those Washington State Veteran Service Officers who tirelessly serve our men and women in uniform, Veterans, and their families, advising and educating them on what benefits are available from federal, state, county, and local resources, and assisting in filing their claims;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives, on behalf of the people of the state of Washington, recognize and honor our Veterans for their service, and Veteran Service Organizations, who provide the services, supports, and assistance our courageous heroes so richly deserve.

There being no objection, HOUSE RESOLUTION NO. 4630 was adopted.

### RESOLUTION

HOUSE RESOLUTION NO. 2021-4631, by Representatives Young and Simmons

WHEREAS, On June 30, 1975, the USS Nimitz aircraft carrier was officially commissioned, named after World War II Fleet Admiral Chester W. Nimitz, and continues to stand the test of time as the oldest active aircraft carrier in the fleet; and

WHEREAS, On June 8, 2020, after several months of training, the USS Nimitz set sail as the first aircraft carrier to ever be deployed during the COVID-19 pandemic, bravely paving the way for all safety standards to follow; and

WHEREAS, The crew of over 5,000 sailors and marines aboard the USS Nimitz risked their lives contributing to the security and well-being of American interests in the Middle East, Africa, and the Western Pacific; and

WHEREAS, The average aircraft carrier is deployed for six months out at sea, the USS Nimitz endured 340 days, or over 11 grueling months, threading perilous waters; and

WHEREAS, The average deployment consists of one monthly port visit for the leisure activity of the crew in allied nations, the COVID-19 pandemic forced the cancellation of most port visits; and

WHEREAS, Nimitz sailors had no access to nature amidst the cold steel of the ship and the whirring sounds of the engine and aircraft being launched; and

WHEREAS, Nimitz sailors had no contact with loved ones back at home, besides postcards and rare instances of limited internet usage; and

WHEREAS, The USS Nimitz strengthened international partnerships by coordinating with Indian, Australian, and Japanese naval forces for the Malabar 2020 joint military exercises; and

WHEREAS, On March 7, 2021, the USS Nimitz finally returned home to Naval Base Kitsap Bremerton having carried out operation Inherent Resolve, operation Freedom's Sentinel, and operation Octave Quartz, and having successfully traveled over 99,000 nautical miles, launched 10,185 sorties, and logged 23,410 flight hours;

NOW, THEREFORE, BE IT RESOLVED, That the House of Representatives recognize the sacrifice, resilience, and dedication of the USS Nimitz crew during an exceptionally trying 2020 deployment. We welcome these brave military men and women back home to Washington state with gratitude for their outstanding service and commitment.

There being no objection, HOUSE RESOLUTION NO. 4631 was adopted.

There being no objection, the House advanced to the third order of business.

#### MESSAGES FROM THE SENATE

April 11, 2021

Mme. SPEAKER:

The Senate has passed:

SECOND SUBSTITUTE HOUSE BILL NO. 1033,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.  
1069,  
SECOND SUBSTITUTE HOUSE BILL NO. 1161,  
SUBSTITUTE HOUSE BILL NO. 1423,  
SUBSTITUTE HOUSE BILL NO. 1472,  
SUBSTITUTE HOUSE BILL NO. 1502,

and the same are herewith transmitted.

Brad Hendrickson, Secretary

April 11, 2021

Mme. SPEAKER:

The Senate has passed:

SENATE BILL NO. 5008,

and the same is herewith transmitted.

Brad Hendrickson, Secretary

There being no objection, the House advanced to the seventh order of business.

#### THIRD READING MESSAGE FROM THE SENATE

April 6, 2021

Mme. SPEAKER:

The Senate has passed HOUSE BILL NO. 1022, with the following amendment(s): 1022 AMS ROLF S2444.1

On page 2, after line 2, insert the following:

"NEW SECTION. **Sec. 2.** This act expires June 30, 2023."

On page 1, line 2 of the title, after "provisions;" strike "and amending RCW 67.16.100" and insert "amending RCW 67.16.100; and providing an expiration date"

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House refused to concur in the Senate amendment to HOUSE BILL NO. 1022 and asked the Senate to recede therefrom.

#### MESSAGE FROM THE SENATE

April 6, 2021

Madame Speaker:

The Senate has passed HOUSE BILL NO. 1034 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**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."

On page 1, line 1 of the title, after "levies;" strike the remainder of the title and insert "amending RCW 36.69.145, 84.52.010, and 84.52.043; creating a new section; and providing an expiration date."

and the same is herewith transmitted.

Sarah Bannister, Deputy, Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1034 and advanced the bill, as amended by the Senate, to final passage.

**FINAL PASSAGE OF HOUSE BILL  
AS SENATE AMENDED**

Representative Fitzgibbon spoke in favor of the passage of the bill.

Representative Orcutt spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of House Bill No. 1034, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of House Bill No. 1034, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 54; Nays, 44; Absent, 0; Excused, 0.

Voting yea: Representatives Bateman, Berg, Bergquist, Berry, Callan, Chandler, Chapman, Chopp, Cody, Davis, Dolan, Duerr, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hackney, Hansen, Harris-Talley, J. Johnson, Kirby, Kloba, Lekanoff, Lovick, Macri, Morgan, Ormsby, Ortiz-Self, Orwall, Peterson, Pollet, Ramel, Ramos, Riccelli, Ryu, Santos, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Stonier, Sullivan, Taylor, Thai, Tharinger, Valdez, Walen, Wicks, Wylie and Mme. Speaker.

Voting nay: Representatives Abbarno, Barkis, Boehnke, Bronoske, Caldier, Chambers, Chase, Corry, Dent, Dufault, Dye, Eslick, Gilday, Goehner, Graham, Griffey, Harris, Hoff, Jacobsen, Klicker, Klippert, Kraft, Kretz, Leavitt, MacEwen, Maycumber, McCaslin, McEntire, Mosbrucker, Orcutt, Paul, Robertson, Rude, Rule, Schmick, Steele, Stokesbary, Sutherland, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

HOUSE BILL NO. 1034, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

March 30, 2021

Madame Speaker:

The Senate has passed HOUSE BILL NO. 1042 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**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."

On page 1, line 5 of the title, after "orientation;" strike the remainder of the title and insert "amending RCW 26.27.051; creating a new section; and declaring an emergency."

and the same is herewith transmitted.

Sarah Bannister, Deputy, Secretary

**SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to HOUSE BILL NO. 1042 and advanced the bill, as amended by the Senate, to final passage.

**FINAL PASSAGE OF HOUSE BILL  
AS SENATE AMENDED**

Representatives Thai and Walsh spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of House Bill No. 1042, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of House Bill No. 1042, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 96; Nays, 2; Absent, 0; Excused, 0.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chase, Chopp, Cody, Corry, Davis, Dent, Dolan, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, J. Johnson, Kirby, Klicker, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Vick, Volz, Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra, Young and Mme. Speaker.

Voting nay: Representatives Kraft and McCaslin.

HOUSE BILL NO. 1042, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 7, 2021

Madame Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1050 with the following amendment:

Strike everything after the enacting clause and insert the following:

"NEW SECTION.     **Sec. 1.**     (1) The legislature finds that hydrofluorocarbons are air pollutants that pose significant threats to our environment. Although hydrofluorocarbons currently represent a small proportion of the state's greenhouse gas emissions, emissions of hydrofluorocarbons have been rapidly increasing in the United States and worldwide, and they are hundreds to thousands of times more potent than carbon dioxide. In 2019, the legislature took a significant step towards reducing greenhouse gas emissions from hydrofluorocarbons by

transitioning to the use of less damaging hydrofluorocarbons or suitable substitutes in certain new foam, aerosol, and refrigerant uses. However, significant sources of hydrofluorocarbon emissions in Washington remain unaddressed by the 2019 legislation, including legacy uses of hydrofluorocarbons as a refrigerant in infrastructure that was installed prior to the effective dates of the restrictions in the 2019 law, and from sources like stationary air conditioners and heat pumps that were not covered by the 2019 law.

(2) Therefore, it is the intent of the legislature to reduce hydrofluorocarbon emissions, including by:

(a) Authorizing the establishment of a maximum global warming potential threshold for hydrofluorocarbons used as a refrigerant;

(b) Authorizing the regulation of hydrofluorocarbons in air conditioning and heat pumps;

(c) Applying the same basic emission control requirements to hydrofluorocarbons that have long applied to ozone-depleting substances used as refrigerants;

(d) Establishing a program to reduce leaks and encourage refrigerant recovery from large refrigeration and air conditioning systems;

(e) Directing the state building code council to adopt codes that are consistent with the goal of reducing greenhouse gas emissions associated with hydrofluorocarbons;

(f) Establishing a state procurement preference for recycled refrigerants; and

(g) Allowing consideration of the global warming potential of refrigerants used in equipment incentivized under utility conservation programs.

(3) Furthermore, it is the intent of the legislature that the ice rink used by Seattle's newest hockey franchise, the Seattle Kraken, should be as cold as possible, but also should be refrigerated using climate-friendly refrigerants, so that on opening night of the 2021-2022 National Hockey League season, as many fans as possible can simultaneously yell the Pacific Northwest's favorite new phrase: 'Release the Kraken!'



NEW SECTION. **Sec. 2.** (1)(a) "Air conditioning" means the process of treating air to meet the requirements of a conditioned space by controlling its temperature, humidity, cleanliness, or distribution.

(b)(i) "Air conditioning" includes chillers, except for purposes of section 8 of this act.

(ii) "Air conditioning" includes heat pumps.

(c) "Air conditioning" applies to stationary air conditioning equipment and does not apply to mobile air conditioning, including those used in motor vehicles, rail and trains, aircraft, watercraft, recreational vehicles, recreational trailers, and campers.

(2) "Class I substance" and "class II substance" means those substances listed in 42 U.S.C. Sec. 7671a, as of November 15, 1990, or those substances listed in Appendix A or B of Subpart A of 40 C.F.R. Part 82, as of January 3, 2017.

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

(4) "Hydrofluorocarbons" means a class of greenhouse gases that are saturated organic compounds containing hydrogen, fluorine, and carbon.

(5) "Ice rink" means a frozen body of water, hardened chemicals, or both, including, but not limited to, professional ice skating rinks and those used by the general public for recreational purposes.

(6) "Manufacturer" includes any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces any product that contains or uses hydrofluorocarbons or is an importer or domestic distributor of such a product.

(7) "Person" means an individual, partnership, franchise holder, association, corporation, a state, a city, a county, or any subdivision or instrumentality of the state.

(8) "Refrigeration equipment" or "refrigeration system" means any stationary device that is designed to contain and use refrigerant. "Refrigeration equipment" includes refrigeration equipment used in retail food, cold storage, industrial process

refrigeration and cooling that does not use a chiller, ice rinks, and other refrigeration applications.

(9) "Regulated refrigerant" means a class I or class II substance as listed in Title VI of section 602 of the federal clean air act amendments of November 15, 1990.

(10) "Residential consumer refrigeration products" has the same meaning as defined in section 430.2 of Subpart A of 10 C.F.R. Part 430 (2017).

(11) "Retrofit" has the same meaning as defined in section 152 of Subpart F of 40 C.F.R. Part 82, as that section existed as of January 3, 2017.

(12) "Substitute" means a chemical, product, or alternative manufacturing process, whether existing or new, that is used to perform a function previously performed by a class I substance or class II substance and any chemical, product, or alternative manufacturing process subsequently developed, adapted, or adopted to perform that function including, but not limited to, hydrofluorocarbons. "Substitute" does not include 2-BTP or any compound as applied to its use in aerospace fire extinguishing systems.

**Sec. 3.** RCW 70A.45.010 and 2020 c 79 s 5 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) "Carbon dioxide equivalents" means a metric measure used to compare the emissions from various greenhouse gases based upon their global warming potential.

(2) "Carbon sequestration" means the process of capturing and storing atmospheric carbon dioxide through biologic, chemical, geologic, or physical processes.

~~(3) ("Class I substance" and "class II substance" means those substances listed in 42 U.S.C. Sec. 7671a, as it read on November 15, 1990, or those substances listed in Appendix A or B of Subpart A of 40 C.F.R. Part 82, as those read on January 3, 2017.~~

~~(4))~~ "Climate advisory team" means the stakeholder group formed in response to executive order 07-02.

~~((5))~~ (4) "Climate impacts group" means the University of Washington's climate impacts group.

~~((6))~~ (5) "Department" means the department of ecology.

~~((7))~~ (6) "Director" means the director of the department.

~~((8))~~ (7) "Greenhouse gas" and "greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and any other gas or gases designated by the department by rule.

~~((9))~~ "Hydrofluorocarbons" means a class of greenhouse gases that are saturated organic compounds containing hydrogen, fluorine, and carbon.

~~((10))~~ "Manufacturer" includes any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces any product that contains or uses hydrofluorocarbons or is an importer or domestic distributor of such a product.

~~((11))~~ (8) "Person" means an individual, partnership, franchise holder, association, corporation, a state, a city, a county, or any subdivision or instrumentality of the state.

~~((12))~~ (9) "Program" means the department's climate change program.

~~((13))~~ "Residential consumer refrigeration products" has the same meaning as defined in section 430.2 of Subpart A of 10 C.F.R. Part 430 (2017).

~~((14))~~ "Retrofit" has the same meaning as defined in section 152 of Subpart F of 40 C.F.R. Part 82, as that section existed as of January 3, 2017.

~~((15))~~ "Substitute" means a chemical, product substitute, or alternative manufacturing process, whether existing or new, that is used to perform a function previously performed by a class I substance or class II substance and any substitute subsequently adopted to perform that function, including, but not limited to, hydrofluorocarbons. "Substitute" does not include 2-BTP or any compound as applied to its use in aerospace fire extinguishing systems.

~~((16))~~ (10) "Western climate initiative" means the collaboration of states, Canadian provinces, Mexican

states, and tribes to design a multisector market-based mechanism as directed under the western regional climate action initiative signed by the governor on February 22, 2007.

**Sec. 4.** RCW 70A.15.6410 and 1991 c 199 s 602 are each amended to read as follows:

(1) ~~((Regulated refrigerant means a class I or class II substance as listed in Title VI of section 602 of the federal clean air act amendments of November 15, 1990.~~

~~((2))~~ A person who services or repairs or disposes of a motor vehicle air conditioning system; commercial or industrial air conditioning, heating, or refrigeration system; or consumer appliance shall use refrigerant extraction equipment to recover regulated refrigerants and substitutes that would otherwise be released into the atmosphere. ~~((This subsection does not apply to off-road commercial equipment.~~

~~((3))~~ (2) Upon request, the department shall provide information and assistance to persons interested in collecting, transporting, or recycling regulated refrigerants and substitutes.

~~((4))~~ (3) The willful release of regulated refrigerants and substitutes from a source listed in subsection ~~((2))~~ (1) of this section is prohibited.

**Sec. 5.** RCW 70A.15.6420 and 1991 c 199 s 603 are each amended to read as follows:

No person may sell, offer for sale, or purchase any of the following:

(1) A substitute with a global warming potential of greater than 150 or a regulated refrigerant in a container designed for consumer recharge of a motor vehicle air conditioning system or consumer appliance during repair or service ~~((This subsection does not apply to a regulated refrigerant purchased for the recharge of the air conditioning system of off-road commercial or agricultural equipment and sold or offered for sale at an establishment which specializes in the sale of off-road commercial or agricultural equipment or parts or service for such equipment))~~;

(2) Nonessential consumer products that contain hydrofluorocarbons with a global warming potential of greater than 150 and chlorofluorocarbons or other

ozone-depleting chemicals, and for which ~~((substitutes))~~ suitable alternatives are readily available. Products affected under this subsection shall include, but are not limited to, party streamers, tire inflators, air horns, noise makers, and ~~((chlorofluorocarbon-containing))~~ cleaning sprays designed for noncommercial or nonindustrial cleaning of electronic or photographic equipment. Products and equipment subject to restrictions on applications or end uses under RCW 70A.45.080 (as recodified by this act) are not nonessential products for which hydrofluorocarbons are restricted under this section.

**Sec. 6.** RCW 70A.15.6430 and 2020 c 20 s 1160 are each amended to read as follows:

The department shall adopt rules to implement RCW 70A.15.6410 and 70A.15.6420 (as recodified by this act). Rules shall include but not be limited to minimum performance specifications for refrigerant extraction equipment, procedures under which owners or operators of stationary refrigeration equipment and air conditioning equipment subject to the requirements of section 9 of this act must provide the department with information related to their use of regulated refrigerants and substitutes, as well as procedures for enforcing RCW 70A.15.6410 and 70A.15.6420 (as recodified by this act) and section 8 of this act.

~~((Enforcement provisions adopted by the department shall not include penalties or fines in areas where equipment to collect or recycle regulated refrigerants is not readily available.))~~

**Sec. 7.** RCW 70A.45.080 and 2020 c 20 s 1404 are each amended to read as follows:

(1) A person may not offer any product or equipment for sale, lease, or rent, or install or otherwise cause any equipment or product to enter into commerce in Washington if that equipment or product consists of, uses, or will use a substitute, as set forth in appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, for the applications or end uses restricted by appendix U or V of the federal regulation, as those read on January 3, 2017, consistent with the deadlines established in subsection (2) of this section. Except where existing equipment is retrofit, nothing in this subsection

requires a person that acquired a restricted product or equipment prior to the effective date of the restrictions in subsection (2) of this section to cease use of that product or equipment. Products or equipment manufactured prior to the applicable effective date of the restrictions specified in subsection (2) of this section may be sold, imported, exported, distributed, installed, and used after the specified effective date.

(2) The restrictions under subsection (1) of this section for the following products and equipment identified in appendix U and V, Subpart G of 40 C.F.R. Part 82, as those read on January 3, 2017, take effect beginning:

(a) January 1, 2020, for:

(i) Propellants;

(ii) Rigid polyurethane applications and spray foam, flexible polyurethane, integral skin polyurethane, flexible polyurethane foam, polystyrene extruded sheet, polyolefin, phenolic insulation board, and bunstock;

(iii) Supermarket systems, remote condensing units, and stand-alone units ~~((, and vending machines))~~;

(b) January 1, 2021, for:

(i) Refrigerated food processing and dispensing equipment;

(ii) Compact residential consumer refrigeration products;

(iii) Polystyrene extruded boardstock and billet, and rigid polyurethane low-pressure two component spray foam;

(c) January 1, 2022, for ~~((residential))~~:

(i) Residential consumer refrigeration products other than compact and built-in residential consumer refrigeration products; and

(ii) Vending machines;

(d) January 1, 2023, for cold storage warehouses;

(e) January 1, 2023, for built-in residential consumer refrigeration products;

(f) January 1, 2024, for centrifugal chillers and positive displacement chillers; and

(g) On either January 1, 2020, or the effective date of the restrictions identified in appendix U and V, Subpart

G of 40 C.F.R. Part 82, as those read on January 3, 2017, whichever comes later, for all other applications and end uses for substitutes not covered by the categories listed in (a) through (f) of this subsection.

(3) The department may by rule:

(a) Modify the effective date of a prohibition established in subsection (2) of this section if the department determines that the rule reduces the overall risk to human health or the environment and reflects the earliest date that a substitute is currently or potentially available;

(b) Prohibit the use of a substitute if the department determines that the prohibition reduces the overall risk to human health or the environment and that a lower risk substitute is currently or potentially available;

(c)(i) Adopt a list of approved substitutes, use conditions, or use limits, if any; and

(ii) Add or remove substitutes, use conditions, or use limits to or from the list of approved substitutes if the department determines those substitutes reduce the overall risk to human health and the environment; and

(d) Designate acceptable uses of hydrofluorocarbons for medical uses that are exempt from the requirements of subsection (2) of this section.

~~(4) ((a) Within twelve months of another state's enactment or adoption of restrictions on substitutes applicable to new light duty vehicles, the department may adopt restrictions applicable to the sale, lease, rental, or other introduction into commerce by a manufacturer of new light duty vehicles consistent with the restrictions identified in appendix B, Subpart C of 40 C.F.R. Part 82, as it read on January 3, 2017. The department may not adopt restrictions that take effect prior to the effective date of restrictions adopted or enacted in at least one other state.~~

~~(b) If the United States environmental protection agency approves a previously prohibited hydrofluorocarbon blend with a global warming potential of seven hundred fifty or less for foam blowing of polystyrene extruded boardstock and billet and rigid polyurethane low pressure two component spray foam~~

~~pursuant to the significant new alternatives policy program under section 7671(k) of the federal clean air act (42 U.S.C. Sec. 7401 et seq.), the department must expeditiously propose a rule consistent with RCW 34.05.320 to conform the requirements established under this section with that federal action.~~

~~(5) A manufacturer must disclose the substitutes used in its products or equipment.)~~ The department shall adopt rules requiring that manufacturers disclose the substitutes used in their products or equipment or to disclose the compliance status of their products or equipment. That disclosure must take the form of:

(a) A label on the equipment or product. The label must meet requirements designated by the department by rule. To the extent feasible, the department must recognize existing labeling that provides sufficient disclosure of the use of substitutes in the product or equipment or of the compliance status of the products or equipment.

(i) The department must consider labels required by state building codes and other safety standards in its rule making; and

(ii) The department may not require labeling of aircraft and aircraft components subject to certification requirements of the federal aviation administration.

(b) Submitting information about the use of substitutes to the department, upon request.

(i) By December 31, 2019, all manufacturers must notify the department of the status of each product class utilizing hydrofluorocarbons or other substitutes restricted under subsection (1) of this section that the manufacturer sells, offers for sale, leases, installs, or rents in Washington state. This status notification must identify the substitutes used by products or equipment in each product or equipment class in a manner determined by rule by the department.

(ii) Within one hundred twenty days after the date of a restriction put in place under this section, any manufacturer affected by the restriction must provide an updated status notification. This notification must indicate whether the manufacturer has

ceased the use of hydrofluorocarbons or substitutes restricted under this section within each product class and, if not, what hydrofluorocarbons or other restricted substitutes remain in use.

(iii) After the effective date of a restriction put in place under this section, any manufacturer must provide an updated status notification when the manufacturer introduces a new or modified product or piece of equipment that uses hydrofluorocarbons or changes the type of hydrofluorocarbons utilized within a product class affected by a restriction. Such a notification must occur within one hundred twenty days of the introduction into commerce in Washington of the product or equipment triggering this notification requirement.

~~((6))~~ (c) Alternative disclosure requirements to (a) of this subsection, if the department determines that the inclusion of a label denoting substitutes used or compliance status is not feasible for a particular product or equipment.

(5) The department may adopt rules to administer, implement, and enforce this section. If the department elects to adopt rules, the department must seek, where feasible and appropriate, to adopt rules, including rules under subsection (4) of this section, that are the same or consistent with the regulatory standards, exemptions, reporting obligations, disclosure requirements, and other compliance requirements of other states or the federal government that have adopted restrictions on the use of hydrofluorocarbons and other substitutes. Prior to the adoption or update of a rule under this section, the department must identify the sources of information it relied upon, including peer-reviewed science.

~~((7))~~ (6) For the purposes of implementing the restrictions specified in appendix U of Subpart G of 40 C.F.R. Part 82, as it read on January 3, 2017, consistent with this section, the department must interpret the term "aircraft maintenance" to mean activities to support the production, fabrication, manufacture, rework, inspection, maintenance, overhaul, or repair of commercial, civil, or military aircraft, aircraft parts, aerospace vehicles, or aerospace components.

~~((8) The authority granted by this section to the department for restricting the use of substitutes is supplementary~~

~~to the department's authority to control air pollution pursuant to chapter 70A.15 RCW. Nothing in this section limits the authority of the department under chapter 70A.15 RCW.~~

~~(9))~~ (7) Except where existing equipment is retrofit, the restrictions of this section do not apply to or limit any use of commercial refrigeration equipment that was installed or in use prior to the effective date of the restrictions established in this section.

NEW SECTION. Sec. 8. (1) Within 12 months of another state's enactment or adoption of restrictions on substitutes applicable to new light-duty vehicles, the department may adopt restrictions applicable to the sale, lease, rental, or other introduction into commerce by a manufacturer of new light-duty vehicles consistent with the restrictions identified in appendix B, Subpart G of 40 C.F.R. Part 82, as of January 3, 2017. The department may apply an effective date to the restrictions adopted under this subsection that differs from the effective date of the restrictions adopted by another state, but the department may not adopt restrictions that take effect prior to the effective date of restrictions adopted or enacted in at least one other state.

(2) The department may adopt rules that establish a maximum global warming potential of 750 for substitutes used in new stationary air conditioning. Rules adopted under this subsection may not take effect prior to:

(a) January 1, 2023, for dehumidifiers and room air conditioners;

(b)(i) January 1, 2025, for other types of stationary air conditioning equipment, but only if before January 1, 2023, the state building code council adopts the following safety standards into the state building code as these standards existed as of the effective date of this section:

(A) American society of heating, refrigerating, and air-conditioning engineers standard 15;

(B) American society of heating, refrigerating, and air-conditioning engineers standard 15.2;

(C) American society of heating, refrigerating, and air-conditioning engineers standard 34; and

(D) Underwriters laboratories standard UL 60335-2-40 edition 4;

(ii) If the state building code council adopts the safety standards referenced in (b)(i) of this subsection after January 1, 2023, the restrictions of this subsection may apply to refrigeration equipment manufactured no earlier than 24 months after the adoption of the safety standards; and

(c) January 1, 2026, for systems with variable refrigerant flow or volume.

(3)(a) Consistent with the timeline established in (b) of this subsection, the department may adopt rules to prohibit the use of refrigerant substitutes that have a global warming potential of greater than 150 for use in refrigeration equipment containing more than 50 pounds of refrigerant;

(b)(i) The restrictions in (a) of this subsection must apply to new refrigeration equipment manufactured after December 31, 2024, but only if before January 1, 2023, the state building code council adopts the following safety standards into the state building code, as these standards existed as of the effective date of this section:

(A) American society of heating, refrigerating, and air-conditioning engineers standard 15;

(B) American society of heating, refrigerating, and air-conditioning engineers standard 34; and

(C) Underwriters laboratories standard UL 60335-2-89 edition 2;

(ii) If the state building code council adopts the safety standards referenced in (b)(i) of this subsection after January 1, 2023, the restrictions of (a) of this subsection may apply to refrigeration equipment manufactured no earlier than 24 months after the adoption of the safety standards.

(4) The department shall prohibit the use of refrigerant substitutes that have a global warming potential of greater than:

(a) One hundred fifty for use in new equipment manufactured after December 31, 2023, for installation in new ice rinks; and

(b) Seven hundred fifty for use in new equipment manufactured after December 31, 2023, for installation in existing ice rinks.

(5)(a) The department, in rules adopted to implement this section, may establish reporting, labeling, and recordkeeping requirements applicable to regulated facilities and persons. To the extent practicable, rules adopted under this section must be harmonized with reporting, labeling, or recordkeeping requirements established under section 9 of this act.

(b) To the extent practicable, the department must adopt rules to implement this section that are consistent with similar programs in other states that reduce emissions from refrigerants.

(c) The department may adopt rules to grant variances from the requirements of this section.

(d) Restrictions adopted by the department under this section are additional to specific restrictions on applications and end uses established in RCW 70A.45.080 (as recodified by this act).

(6)(a) Prior to adopting final rules to implement restrictions under subsection (2) or (3) of this section, the department must review the availability and affordability of:

(i) Equipment that meets applicable global warming potential requirements;

(ii) Refrigerants that meet applicable global warming potential requirements; and

(iii) Appropriate training to utilize equipment that meets applicable global warming potential requirements.

(b) After the review required under (a) of this subsection, the department is encouraged to consider delaying the effective date of restrictions under this section in the event that the department determines that significant training or compliant equipment or refrigerant availability and affordability limitations are expected to occur.

NEW SECTION. **Sec. 9.** (1) The department shall establish a refrigerant management program designed to reduce emissions of refrigerants, including regulated substances and their substitutes, from activities or equipment responsible for significant volumes of such emissions. The program must include, at minimum, larger stationary refrigeration systems and larger commercial air conditioning systems. The department must adopt rules

to implement and enforce the requirements of this section. The department may require compliance with refrigerant management program requirements beginning no earlier than January 1, 2024, and no earlier than the adjournment of the regular legislative session following the submission of a report to the appropriate committees of the legislature by the department estimating leakage of refrigerants from existing systems in Washington, and estimating a statewide rate of leakage from the categories of systems that are subject to the refrigerant management program rules adopted by the department under this section.

(2)(a) The department shall exempt refrigeration and air conditioning equipment operations associated with de minimis emissions or with a de minimis charging capacity of less than 50 pounds in a single system from registration, reporting, and leak detection requirements established in this section. The department shall exempt from the requirements established in this section equipment that uses refrigerants with a global warming potential of less than 150 and that are not class I or class II substances.

(b) The department may scale the requirements adopted under this section based on the size of the equipment, the facility containing the equipment, or the business operations of a person responsible for such emissions. The department may establish delayed effective dates of requirements applicable to persons and systems associated with lower emissions of refrigerants than other persons and systems regulated under this section.

(3) Each year, the owner or operator of a stationary refrigeration system or air conditioning system that exceeds a de minimis charge capacity of 50 pounds must register with the department. The department must phase in system registration requirements under this subsection in order to prioritize systems with the largest charge capacity or greatest potential for refrigerant emissions. Registration with the department must, consistent with rules adopted by the department, include the submission of information about the refrigeration system, including equipment type, refrigerant charge capacity, and the type of refrigerant used.

(4) Prior to the sale of a registered refrigeration or air conditioning system, the owners or operators of the system must provide leak rate documentation to the prospective purchaser.

(5) The owner or operator of a registered stationary refrigeration system or air conditioning system must conduct periodic leak-detection inspections of the system. The department may require inspections to be conducted with relatively greater frequency for systems with larger volumes of refrigerants. The department may exempt systems that use refrigerants with low global warming potential or that have automatic leak-detection systems from the requirements of this subsection.

(6) The owner or operator of a registered stationary refrigeration or air conditioning system must inspect for leaks each time significant amounts of refrigerant are added to the system.

(7) The department must adopt rules that:

(a) Require refrigeration or air conditioning systems found to be leaking to be repaired within a specified amount of time;

(b) Require the retrofit, replacement, or retirement of a refrigeration or air conditioning system with a leak that is not capable of being repaired;

(c) Establish annual reporting requirements for owners or operators of refrigeration systems or air conditioning systems that include information about the system, including system service and leak repair conducted on the system over the preceding year, and information on the purchase and use of refrigerants in the covered system during the preceding year;

(d) Establish annual reporting requirement for refrigerant wholesalers, distributors, and reclaimers;

(e) Establish record retention requirements for operators of facilities and wholesalers, distributors, and reclaimers of refrigerants and substitutes;

(f) Apply leak rates and other regulatory thresholds that achieve greater emission reductions than the federal regulations adopted by the United States environmental protection agency, and that reflect levels of achievable

superior performance established for the greenhill voluntary program implemented by the United States environmental protection agency; and

(g) To the maximum extent practicable while giving consideration to the goals of this chapter, establish recordkeeping and reporting requirements that are consistent with programs implemented by the federal environmental protection agency or in other states, and that minimize compliance costs and regulatory burdens for regulated parties.

(8) The department may adopt rules to establish:

(a) Service practices for stationary appliances, including both stationary refrigeration systems and air conditioning systems. Service practices established by the department may include requiring technicians certified under United States environmental protection agency standards to service refrigerant systems, requiring reporting and recordkeeping that identifies the technicians that have serviced appliances, prohibiting practices likely to result in releases to the environment, requiring all practicable efforts to recover refrigerants from covered systems, and prohibiting the addition of refrigerants to systems known to have a leak; and

(b) A process for wholesalers, distributors, reclaimers, and refrigeration and air conditioning equipment operators to apply to the department for an exemption from some or all of the requirements of this section. Exemptions may be granted by the department on the basis of economic hardship, natural disaster, or after considering a calculation of lifecycle greenhouse gas emissions associated with the granting of an exemption that will allow an identified leak to go unrepaired for a finite period of time.

(9) The department may determine, assess, and collect annual fees from the owners or operators of refrigeration and air conditioning systems regulated under this section in an amount sufficient to cover the direct and indirect costs of administering and enforcing the provisions of this section. All fees collected under this subsection must be deposited in the refrigerant emission management account created in section 12 of this act.

(10) By December 1, 2029, and every five years thereafter, the department must consider the greenhouse gas emissions reductions achieved under the program created in this section and the criteria of section 11(3) of this act, and make a determination whether to continue to implement the program for the following five years. The department must notify the appropriate committees of the house of representatives and the senate of its determination.

**Sec. 10.** RCW 19.27.580 and 2019 c 284 s 7 are each amended to read as follows:

(1) The building code council shall adopt rules, including by amending existing rules as necessary, that permit the use of substitutes approved under RCW ((70.235.080)) 70A.45.080 (as recodified by this act) and that do not require the use of substitutes that are restricted under RCW ((70.235.080)) 70A.45.080 (as recodified by this act). The building code council may not prohibit the use of a substitute refrigerant allowed pursuant to the United States environmental protection agency's significant new alternatives policy to implement 42 U.S.C. Sec. 7671k.

(2) The building code council shall adopt rules that allow the use of substitutes, as defined in section 2 of this act, with a lower global warming potential than alternative substances, in accordance with nationally recognized, published standards that protect building occupant safety and reduce fire risks.

(3) The building code council may adopt rules that allow the use of substitutes, as defined in section 2 of this act, that are under review but have not yet been approved by the United States environmental protection agency's significant new alternatives policy to implement 42 U.S.C. Sec. 7671k, if the substitutes have a lower global warming potential than alternative substances and meet nationally recognized, published standards that protect building occupant safety and reduce fire risks.

(4) Any rules adopted by the building code council that affect the design or installation of refrigeration or air conditioning systems must be consistent with a goal of minimizing system leakage of refrigerants.

(5) Prior to the adoption of any rules by the building code council that affect



the design or installation of refrigeration or air conditioning systems that facilitate the use of substitutes with a low global warming potential in air conditioning systems or equipment, the building code council must solicit input from organizations representing affected parties and parties with expertise in the substitutes or affected types of systems or equipment including, but not limited to:

(a) Manufacturers, distributors, and installers of refrigeration and air conditioning systems; and

(b) Refrigeration and air conditioning system contractors that are small businesses or that primarily serve rural areas.

**NEW SECTION. Sec. 11.** (1) The authority granted by this chapter to the department for restricting the use of substitutes is supplementary to the department's authority to control air pollution pursuant to chapter 70A.15 RCW. Nothing in this chapter limits the authority of the department under chapter 70A.15 RCW.

(2) The department, in enforcing the requirements of this chapter, must adhere to the provisions applicable to the department under chapter 43.05 RCW regarding site inspections, technical assistance visits, notices of correction, and the issuance of civil penalties, to the extent that these provisions are not in conflict with federal requirements described in RCW 43.05.901.

(3) The department may elect to refrain from or cease administering or enforcing a requirement of this chapter if the United States environmental protection agency adopts requirements that:

(a) Are substantially duplicative of the requirements of this chapter and that negate the additional emission reduction benefits of state implementation of any requirement of this chapter; or

(b) Preempt state authority under this chapter.

**NEW SECTION. Sec. 12.** The refrigerant emission management account is created in the state treasury. All receipts received by the state from the fees imposed under section 9 of this act 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 develop and implement the provisions of section 9 of this act.

**Sec. 13.** RCW 70A.15.1010 and 2020 c 20 s 1080 are each amended to read as follows:

(1) The air pollution control account is established in the state treasury. All receipts collected by or on behalf of the department from RCW 70A.15.2200(2), and receipts from nonpermit program sources under RCW 70A.15.2210(1) and 70A.15.2230(7), and all receipts from RCW 70A.15.5090 and 70A.15.5120 shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only to develop and implement the provisions of this chapter, chapter 70A.25 RCW, and RCW 70A.45.080 (as recodified by this act).

(2) The amounts collected and allocated in accordance with this section shall be expended upon appropriation except as otherwise provided in this section and in accordance with the following limitations:

Portions of moneys received by the department of ecology from the air pollution control account shall be distributed by the department to local authorities based on:

(a) The level and extent of air quality problems within such authority's jurisdiction;

(b) The costs associated with implementing air pollution regulatory programs by such authority; and

(c) The amount of funding available to such authority from other sources, whether state, federal, or local, that could be used to implement such programs.

(3) The air operating permit account is created in the custody of the state treasurer. All receipts collected by or on behalf of the department from permit program sources under RCW 70A.15.2210(1), 70A.15.2260, 70A.15.2270, and 70A.15.2230(7) shall be deposited into the account. Expenditures from the account may be used only for the activities described in RCW 70A.15.2210(1), 70A.15.2260, 70A.15.2270, and 70A.15.2230(7). Moneys in the account may be spent only after appropriation.

**NEW SECTION. Sec. 14.** (1) By December 1, 2021, the department of ecology must

provide recommendations to the appropriate committees of the house of representatives and the senate regarding the optimal design of a program to address the end-of-life management and disposal of refrigerants including, but not limited to, ozone-depleting substances and hydrofluorocarbons. In developing the recommendations, the department must solicit feedback from potentially impacted parties and the public, and must consider actions taken by other jurisdictions to incentivize refrigerant reuse or reclamation. The recommendations may come in the form of draft legislation.

(2) The recommendations must specifically include, at minimum, the following program design considerations:

(a) The legal and financial obligations to support or participate in the program applicable to refrigerant manufacturers, importers, distributors, and retailers, and to refrigerant-using equipment owner-operators and service technicians;

(b) A funding mechanism for refrigerant recovery and disposal activities carried out by the program that will also provide a financial incentive for the recovery and emission-reducing management of refrigerants that are no longer of utility to a consumer; and

(c) Performance goals and operational standards for activities carried out by the program to collect, transport, and recycle, reuse, or dispose of refrigerants.

**Sec. 15.** RCW 70A.15.3150 and 2020 c 20 s 1111 are each amended to read as follows:

(1) Any person who knowingly violates any of the provisions of this chapter or (~~chapter 70A.25 RCW, RCW 70A.45.080~~) chapters 70A.25 and 70A.--- (the new chapter created in section 20 of this act) RCW, or any ordinance, resolution, or regulation in force pursuant thereto is guilty of a gross misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars, or by imprisonment in the county jail for up to three hundred sixty-four days, or by both for each separate violation.

(2) Any person who negligently releases into the ambient air any substance listed by the department of

ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who at the time negligently places another person in imminent danger of death or substantial bodily harm is guilty of a gross misdemeanor and shall, upon conviction, be punished by a fine of not more than ten thousand dollars, or by imprisonment for up to three hundred sixty-four days, or both.

(3) Any person who knowingly releases into the ambient air any substance listed by the department of ecology as a hazardous air pollutant, other than in compliance with the terms of an applicable permit or emission limit, and who knows at the time that he or she thereby places another person in imminent danger of death or substantial bodily harm, is guilty of a class C felony and shall, upon conviction, be punished by a fine of not less than fifty thousand dollars, or by imprisonment for not more than five years, or both.

(4) Any person who knowingly fails to disclose a potential conflict of interest under RCW 70A.15.2000 is guilty of a gross misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five thousand dollars.

**Sec. 16.** 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 (~~(RCW)~~), 70A.450, or 70A.--- (the new chapter created in section 20 of this act) RCW, (~~(RCW 70A.45.080)~~) or any of the rules in force under such chapters or section may incur a civil penalty in an amount not to exceed ten thousand dollars per day for each violation. Each such violation shall be a separate and distinct offense, and in case of a continuing violation, each day's continuance shall be a separate and distinct violation.

(b) Any person who fails to take action as specified by an order issued pursuant to this chapter shall be liable for a civil penalty of not more than ten thousand dollars for each day of continued noncompliance.

(2)(a) Penalties incurred but not paid shall accrue interest, beginning on the

ninety-first day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the thirty-first day following final resolution of the appeal.

(b) The maximum penalty amounts established in this section may be increased annually to account for inflation as determined by the state office of the economic and revenue forecast council.

(3) Each act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the same penalty. The penalties provided in this section shall be imposed pursuant to RCW 43.21B.300.

(4) ~~(All)~~ (a) Except as provided in (b) of this subsection, all penalties recovered under this section by the department shall be paid into the state treasury and credited to the air pollution control account established in RCW 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.

(b) All penalties recovered for violations of chapter 70A.--- (the new chapter created in section 20 of this act) RCW must be paid into the state treasury and credited to the refrigerant emission management account created in section 12 of this act.

(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. 17.** 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) 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) In addition to the requirements of RCW 19.280.030(3), in assessing the cost-effective conservation required under this section, a qualifying utility is encouraged to promote the adoption of air conditioning, as defined in section 2 of this act, with refrigerants not exceeding a global warming potential of 750 and the replacement of stationary refrigeration systems that contain ozone-depleting substances or hydrofluorocarbon refrigerants with a high global warming potential.

(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. 18.** RCW 19.27A.220 and 2019 c 285 s 4 are each amended to read as follows:

(1) The department must establish a state energy performance standard early adoption incentive program consistent with the requirements of this section.

(2) The department must adopt application and reporting requirements for the incentive program. Building energy reporting for the incentive program must be consistent with the energy reporting requirements established under RCW 19.27A.210.

(3) Upon receiving documentation demonstrating that a building owner qualifies for an incentive under this section, the department must authorize each applicable entity administering incentive payments, as provided in RCW 19.27A.240, to make an incentive payment to the building owner. When a building is served by more than one entity offering incentives or more than one type of fuel, incentive payments must be proportional to the energy use intensity reduction of each specific fuel provided by each entity.

(4) An eligible building owner may receive an incentive payment in the amounts specified in subsection (6) of this section only if the following requirements are met:

(a) The building is either: (i) A covered commercial building subject to the requirements of the standard established under RCW 19.27A.210; or (ii) a multifamily residential building where the floor area exceeds fifty thousand gross square feet, excluding the parking garage area;

(b) The building's baseline energy use intensity exceeds its applicable energy use intensity target by at least fifteen energy use intensity units;

(c) At least one electric utility, gas company, or thermal energy company providing or delivering energy to the covered commercial building is participating in the incentive program by administering incentive payments as provided in RCW 19.27A.240; and

(d) The building owner complies with any other requirements established by the department.

(5) (a) An eligible building owner who meets the requirements of subsection (4) of this section may submit an application to the department for an incentive payment in a form and manner prescribed by the department. The application must be submitted in accordance with the following schedule:

(i) For a building with more than two hundred twenty thousand gross square feet, beginning July 1, 2021, through June 1, 2025;

(ii) For a building with more than ninety thousand gross square feet but less than two hundred twenty thousand and one gross square feet, beginning July 1, 2021, through June 1, 2026; and

(iii) For a building with more than fifty thousand gross square feet but less than ninety thousand and one gross square feet, beginning July 1, 2021, through June 1, 2027.

(b) The department must review each application and determine whether the applicant is eligible for the incentive program and if funds are available for the incentive payment within the limitation established in RCW 19.27A.230. If the department certifies an application, it must provide verification to the building owner and each entity participating as provided in RCW 19.27A.240 and providing service to the building owner.

(6) An eligible building owner that demonstrates early compliance with the applicable energy use intensity target under the standard established under RCW 19.27A.210 may receive a base incentive payment of eighty-five cents per gross square foot of floor area, excluding parking, unconditioned, or semiconditioned spaces.

(7) The incentives provided in subsection (6) of this section are subject to the limitations and requirements of this section, including any rules or procedures implementing this section.

(8) The department must establish requirements for the verification of energy consumption by the building owner and each participating electric utility, gas company, and thermal energy company.

(9) The department must provide an administrative process for an eligible building owner to appeal a determination of an incentive eligibility or amount.

(10) By September 30, 2025, and every two years thereafter, the department must report to the appropriate committees of the legislature on the results of the incentive program under this section and may provide recommendations to improve the effectiveness of the program. The 2025 report to the legislature must include recommendations for aligning the incentive program established under this section consistent with a goal of reducing greenhouse gas emissions from substitutes, as defined in section 2 of this act.

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

**Sec. 19.** 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 (as recodified by this act);

(b) Do not contain hydrofluorocarbons or contain hydrofluorocarbons with a comparatively low global warming potential;

(c) Are not designed to function only in conjunction with hydrofluorocarbons characterized by a comparatively high global warming potential; and

(d) Were not manufactured using hydrofluorocarbons or were manufactured using hydrofluorocarbons with a low global warming potential.

(2) No agency may knowingly purchase products that are not accorded a preference in the purchasing and procurement policies established by the department pursuant to subsection (1) of this section, unless there is no cost-effective and technologically feasible option that is accorded a preference.

(3) ~~((Nothing in))~~ The department shall establish a purchasing and procurement policy that provides a preference, in serving existing equipment, for a reclaimed refrigerant that meets the minimum quality requirement established in federal regulations adopted under 42 U.S.C. Sec. 7671(g).

(4) (a) Nothing in subsection (1) of 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.

~~((44))~~ (b) Nothing in subsection (3) of 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, 2021.

(5) By December 1, 2020, and each December 1st of even-numbered years thereafter, the department must submit a status report to the appropriate committees of the house of representatives and senate regarding the implementation and compliance of the department and state agencies with this section.

NEW SECTION. Sec. 20. Sections 1, 2, 8, 9, 11, and 12 of this act constitute a new chapter in Title 70A RCW.

NEW SECTION. Sec. 21. RCW 70A.45.080, 70A.15.6410, 70A.15.6420, and 70A.15.6430 are each recodified as sections in chapter 70A.--- RCW (the new chapter created in section 20 of this act).

NEW SECTION. Sec. 22. Section 8 of this act takes effect January 1, 2022.

NEW SECTION. Sec. 23. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 24. 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."

On page 1, line 2 of the title, after "gases;" strike the remainder of the title and insert "amending RCW 70A.15.6410, 70A.15.6420, 70A.15.6430, 70A.45.080, 19.27.580, 70A.15.1010, 70A.15.3150, 70A.15.3160, 19.285.040, 19.27A.220, and 39.26.310; reenacting and amending RCW 70A.45.010; adding a new chapter to Title 70A RCW; creating new sections; recodifying RCW 70A.45.080, 70A.15.6410, 70A.15.6420, and 70A.15.6430; and providing an effective date."

and the same is herewith transmitted.

Sarah Bannister, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1050 and advanced the bill, as amended by the Senate, to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Fitzgibbon spoke in favor of the passage of the bill.

Representative Dye spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1050, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1050, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 56; Nays, 42; Absent, 0; Excused, 0.

Voting yea: Representatives Bateman, Berg, Bergquist, Berry, Bronoske, Callan, Chapman, Chopp, Cody, Davis, Dolan, Duerr, Entenman, Fey, Fitzgibbon, Frame, Goodman, Gregerson, Hackney, Hansen, Harris-Talley, J. Johnson, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Morgan, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Ryu, Santos, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Stonier, Sullivan, Taylor, Thai, Tharinger, Valdez, Walen, Wicks, Wylie and Mme. Speaker.

Voting nay: Representatives Abbarno, Barkis, Boehnke, Caldier, Chambers, Chandler, Chase, Corry, Dent, Dufault, Dye, Eslick, Gilday, Goehner, Graham, Griffey, Harris, Hoff, Jacobsen, Klicker, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, McEntire, Mosbrucker, Orcutt, Robertson, Rude, Rule, Schmick, Steele, Stokesbary, Sutherland, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1050, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 3, 2021

Madame Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1108 with the following amendment:

Strike everything after the enacting clause and insert the following:



**"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.doc:

(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, (~~(c)~~) 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."

On page 1, line 2 of the title, after "process;" strike the remainder of the title and insert "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."

and the same is herewith transmitted.

Sarah Bannister, Deputy, Secretary

#### **SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1108 and advanced the bill, as amended by the Senate, to final passage.

#### **FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED**

Representatives Orwall and Walsh spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1108, as amended by the Senate.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1108, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chase, Chopp, Cody,

Corry, Davis, Dent, Dolan, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, J. Johnson, Kirby, Klicker, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Vick, Volz, Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra, Young and Mme. Speaker.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1108, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### **MESSAGE FROM THE SENATE**

March 29, 2021

Madame Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1109 with the following amendment:

Beginning on page 1, line 5, strike all of section 1 and insert the following:

**"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."

On page 2, line 39, after "general" strike "may" and insert "shall"

On page 3, line 4, after "under" strike "section 1(2)(b) of this act" and insert "RCW 5.70.005(5)"

On page 3, line 8, after "the" strike all material through "chiefs" and insert "association"

On page 3, after line 14, insert the following:

"(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."

On page 7, after line 17, insert the following:

"**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."

On page 1, beginning on line 1 of the title, after "assault;" strike "amending RCW 43.101.278 and 70.125.110; and adding new sections to chapter 5.70 RCW" and insert "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"

and the same is herewith transmitted.

Sarah Bannister, Deputy, Secretary

#### **SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1109 and advanced the bill, as amended by the Senate, to final passage.

#### **FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED**

Representatives Orwall and Mosbrucker spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1109, as amended by the Senate.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1109, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chase, Chopp, Cody, Corry, Davis, Dent, Dolan, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, J. Johnson, Kirby, Klicker, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Vick, Volz, Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra, Young and Mme. Speaker.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1109, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### **MESSAGE FROM THE SENATE**

April 3, 2021

Madame Speaker:

The Senate has passed ENGROSSED SUBSTITUTE HOUSE BILL NO. 1184 with the following amendment:

On page 2, line 15, after "Permitting;" strike "and"

On page 2, line 23, after "projects" insert "; and

(i) The need for a water right impairment review through the department of ecology"

and the same is herewith transmitted.

Sarah Bannister, Deputy, Secretary

#### **SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 1184 and advanced the bill, as amended by the Senate, to final passage.

#### **FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED**

Representatives Duerr and Goehner spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Substitute House Bill No. 1184, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Substitute House Bill No. 1184, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 94; Nays, 4; Absent, 0; Excused, 0.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chase, Chopp, Cody, Corry, Davis, Dent, Dolan, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, J. Johnson, Kirby, Klicker, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Taylor, Thai, Tharinger, Valdez, Vick, Volz, Walen, Wicks, Wilcox, Wylie, Ybarra and Mme. Speaker.

Voting nay: Representatives Kraft, Sutherland, Walsh and Young.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1184, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 9, 2021

Madame Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1216 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** (1) The legislature finds that preservation and enhancement of city trees and urban forests contributes multiple benefits, including stormwater management, carbon sequestration, local air and water quality enhancements, and fish and wildlife habitat, and is a cost-effective way to meet these objectives. The legislature further finds that climate change is impacting our state in numerous ways, including summer heat waves, heavier winter rains, and lower air quality, all of which can be improved by increased tree canopy. The legislature further finds that modern and well-crafted urban forestry programs can have significant additional benefits related to human health, especially when delivered in highly impacted communities with higher health disparities and that also have lower existing tree canopy.

Significant research exists demonstrating health benefits of trees and green spaces, including air and water quality improvements, positive emotional responses to being in nature, physical activity, and social cohesion through interacting in public green spaces. Furthermore, the legislature finds that Washington state faces continued urgency in adequately protecting essential salmon habitat, which is necessary to promote salmon recovery and thus help protect our endangered southern resident killer whale population. It is the intent of the legislature to enhance urban forestry programs that maximize cobenefits related to human health and salmon recovery.

(2) The legislature further recognizes that the existing evergreen communities act, in chapter 76.15 RCW and related programs in state law, established a successful framework for supporting urban forestry in Washington state. That act established the need for tools including canopy assessment and regional tree canopy analysis, and targeted technical assistance to support cities and counties seeking to deliver impactful urban forestry programs. The legislature intends to modernize and add capacity to the evergreen communities act by utilizing information and analysis around environmental health disparities and salmon recovery plans, and increasing capacity for the delivery of an urban forestry program in order to strengthen and enhance the impacts of this act and to expand participation to include federally recognized tribes and other community-based organizations.

**Sec. 2.** RCW 76.15.005 and 1991 c 179 s 1 are each amended to read as follows:

(1) Trees and other woody vegetation are a necessary and important part of community ~~((and urban))~~ environments. ~~((Community and urban))~~ Urban and community forests have many values and uses including conserving energy, reducing air and water pollution and soil erosion, contributing to property values, attracting business, reducing glare and noise, providing aesthetic and historical values, providing wood products, and affording comfort and protection for humans and wildlife.

(2) ~~((As urban and community areas in Washington state grow, the need to plan for and protect community and urban forests increases. Cities and communities benefit from assistance in~~

developing and maintaining community and urban forestry programs that also address future growth.

~~(3) Assistance and encouragement in establishment, retention, and enhancement of these forests and trees by local governments, citizens, organizations, and professionals are in the interest of the state based on the contributions these forests make in preserving and enhancing the quality of life of Washington's municipalities and counties while providing opportunities for economic development.) As urban and community areas in Washington state grow, the need to plan for, promote, and manage urban and community forests increases. Cities and communities benefit from assistance in developing and maintaining urban and community forestry programs that also address future growth.~~

(3) Assistance and encouragement in the establishment, retention, and enhancement of these forests and trees by local governments, residents, organizations, and professionals are in the interest of the state based on the contributions these forests make in preserving and enhancing the quality of life of Washington's cities, counties, and tribal lands while providing opportunities for economic development.

(4) Well-maintained urban forests deliver local air and water quality benefits that can have positive impacts on human health.

(5) Increased tree canopy in urban areas can positively impact salmon populations through stormwater management and reduction of stream temperatures, thereby improving critical salmon habitat.

**Sec. 3.** RCW 76.15.007 and 1991 c 179 s 2 are each amended to read as follows:

The purpose of this chapter is to:

~~(1) Encourage ((planting and maintenance and management of trees in the state's municipalities and counties and maximize the potential of tree and vegetative cover in improving the quality of the environment.~~

~~(2) Encourage the coordination of state and local agency activities and maximize citizen participation in the development and implementation of community and urban forestry-related programs.~~

~~(3) Foster healthy economic activity for the state's community and urban forestry-related businesses through cooperative and supportive contracts with the private business sector.~~

~~(4) Facilitate the creation of employment opportunities related to community and urban forestry activities including opportunities for inner city youth to learn teamwork, resource conservation, environmental appreciation, and job skills.~~

~~(5) Provide meaningful voluntary opportunities for the state's citizens and organizations interested in community and urban forestry activities)) planning for, planting, maintaining, and managing of trees in the state's cities, counties, and tribal lands and maximize the potential of tree and vegetative cover in improving the quality of the environment;~~

(2) Encourage the coordination of activities by state, local agency, and federally recognized tribes, and maximize resident participation in the development and implementation of urban and community forestry-related programs, including through capacity building to facilitate participation from new partners;

(3) Foster healthy economic activity for the state's urban and community forestry-related businesses through cooperative and supportive contracts with the private business sector;

(4) Facilitate the creation of employment opportunities related to urban and community forestry activities, including opportunities for youth, especially in urban areas, to learn teamwork, resource conservation, environmental appreciation, and job skills;

(5) Provide meaningful voluntary opportunities for the state's residents and organizations interested in urban and community forestry activities;

(6) Contribute to improved human health through targeted delivery of programs and activities in highly impacted communities with greater health disparities;

(7) Contribute to salmon and orca recovery through targeted delivery of programs and activities in regions that include important salmon habitat



identified by regional salmon recovery plans.

**Sec. 4.** RCW 76.15.010 and 2008 c 299 s 23 are each amended to read as follows:

~~((Unless the context clearly requires otherwise, the))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

~~(1) ("Community and urban forest" is that land in and around human settlements ranging from small communities to metropolitan areas, occupied or potentially occupied by trees and associated vegetation. Community and urban forestland may be planted or unplanted, used or unused, and includes public and private lands, lands along transportation and utility corridors, and forested watershed lands within populated areas.~~

~~(2) "Community and urban forest assessment" has the same meaning as defined in RCW 35.105.010.~~

~~(3) "Community and urban forest inventory" has the same meaning as defined in RCW 35.105.010.~~

~~(4) "Community and urban forestry" means the planning, establishment, protection, care, and management of trees and associated plants individually, in small groups, or under forest conditions within municipalities and counties.~~

~~(5))~~ "Department" means the department of natural resources.

~~((6) "Municipality" means a city, town, port district, public school district, community college district, irrigation district, weed control district, park district, or other political subdivision of the state.~~

~~(7) "Person" means an individual, partnership, private or public municipal corporation, Indian tribe, state entity, county or local governmental entity, or association of individuals of whatever nature.)~~

(2) "Evergreen community" means a city, town, or county designated as such under RCW 76.15.090.

(3) "Highly impacted community" has the same meaning as defined in RCW 19.405.020 or an equivalent cumulative impacts analysis that identifies the environmental health conditions of communities as a factor of both environmental health hazards and

vulnerable populations as defined in RCW 19.405.020.

(4) "Management plan" means an urban forest management plan developed pursuant to this chapter.

(5) "Tree canopy" means the layer of leaves, branches, and stems of trees that cover the ground when viewed from above and that can be measured as a percentage of a land area shaded by trees.

(6) "Tribes" means any federally recognized Indian tribes whose traditional lands and territories include parts of the state.

(7) "Urban and community forest" or "urban forest" is that land in and around human settlements ranging from small communities to metropolitan areas, occupied or potentially occupied by trees and associated vegetation. Urban and community forestland may be planted or unplanted, used or unused, and includes public and private lands, lands along transportation and utility corridors, and forested watershed lands within populated areas. Nothing in this chapter may be construed to apply to lands subject to or designated under chapter 76.09, 79.70, 79.71, 84.33, or 84.34 RCW.

(8) "Urban and community forest assessment" or "urban forest assessment" means an analysis of the urban and community forest inventory to: Establish the scope and scale of forest-related benefits and services; determine the economic valuation of such benefits, highlight trends, and issues of concern; identify high priority areas to be addressed; outline strategies for addressing the critical issues and urban landscapes; and identify opportunities for retaining trees, expanding forest canopy, and planting additional trees to sustain Washington's urban and community forests.

(9) "Urban and community forest inventory" or "urban forest inventory" means a management tool designed to gauge the condition, management status, health, and diversity of an urban and community forest. An inventory may evaluate individual trees or groups of trees or canopy cover within urban and community forests, and will be periodically updated by the department.

(10) "Urban and community forestry" or "urban forestry" means the planning, establishment, protection, care, and management of trees and associated plants

individually, in small groups, or under more naturally forested conditions within cities, counties, and tribal lands.

(11) "Urban and community forestry ordinance" or "urban forestry ordinance" is an ordinance developed by a city, county, or tribe that promotes urban forestry management and care of trees.

(12) "Vulnerable populations" has the same meaning as defined in RCW 19.405.020.

**Sec. 5.** RCW 76.15.020 and 2008 c 299 s 3 are each amended to read as follows:

~~(1) The department may establish and maintain a program in ((community and urban forestry to accomplish the purpose stated in RCW 76.15.007. The department may assist municipalities and counties in establishing and maintaining community and urban forestry programs and encourage persons to engage in appropriate and improved tree management and care.~~

~~(2) The department may advise, encourage, and assist municipalities, counties, and other public and private entities in the development and coordination of policies, programs, and activities for the promotion of community and urban forestry.~~

~~(3) The department may appoint a committee or council, in addition to the technical advisory committee created in RCW 76.15.080 to advise the department in establishing and carrying out a program in community and urban forestry.~~

~~(4) The department may assist municipal and county tree maintenance programs by making surplus equipment available on loan where feasible for community and urban)) urban and community forestry to accomplish the purpose stated in RCW 76.15.007. The department may assist cities, counties, and federally recognized tribes in establishing and maintaining urban and community forestry programs and encourage appropriate and improved tree management and care.~~

(2) The department may advise, encourage, and assist cities, counties, tribes, and other public and private entities in the development and coordination of policies, programs, and activities for the promotion of urban and community forestry.

(3) The department may appoint a committee or council to advise the department in establishing and carrying

out a program in urban and community forestry.

(4) The department may assist municipal and county tree maintenance programs by making surplus equipment available on loan where feasible for urban and community forestry programs and cooperative projects.

(5) An owner of private property may opt out of a voluntary urban and community forestry program established by a city, county, or federally recognized tribe pursuant to this chapter. The property owner opting out must provide notice to the city, county, or federally recognized tribe in either written or electronic form.

**Sec. 6.** RCW 76.15.030 and 1991 c 179 s 5 are each amended to read as follows:

The department may:

(1) Receive and disburse any and all moneys contributed, allotted, or paid by the United States under authority of any act of congress for the purposes of this chapter.

(2) Receive such gifts, grants, bequests, and endowments and donations of labor, material, seedlings, and equipment from public or private sources as may be made for the purpose of carrying out the provisions of this chapter, and may spend the gifts, grants, bequests, endowments, and donations as well as other moneys from public or private sources.

(3) Charge fees for attendance at workshops and conferences, and for various publications and other materials that the department may prepare.

(4) Enter into agreements and contracts with ((persons having community and urban)) cities, counties, tribes, nonprofit organizations, and others having urban and community forestry-related responsibilities.

**Sec. 7.** RCW 76.15.050 and 1993 c 204 s 10 are each amended to read as follows:

~~The department may enter into agreements with one or more nonprofit organizations whose primary purpose is urban tree planting. The agreements ((shall be to further public education about and support for urban tree planting, and for obtaining voluntary activities by the local community organizations in tree planting programs. The agreements shall ensure that such~~

~~programs are consistent with the purposes of the community and urban)) must be directed at furthering public education about and support for urban tree planning, planting, establishment, care, and long-term maintenance, and for obtaining voluntary activities by the local community organizations in tree planting programs. The agreements must ensure these programs are consistent with the purposes of the urban and community forestry program under this chapter.~~

**Sec. 8.** RCW 76.15.060 and 1993 c 204 s 11 are each amended to read as follows:

~~The department ((shall encourage urban planting of tree varieties that are site-appropriate and provide the best combination of energy and water conservation, fire safety and other safety, wildlife habitat)) must encourage urban planting and care through establishment and long-term management of trees, encouraging varieties that are site-appropriate and provide the best combination of energy and water conservation, fire safety and other safety, wildlife habitat, stormwater management, and aesthetic value. The department may provide technical assistance in developing programs in tree planting for energy conservation in areas of the state where such programs are most cost-effective. The department must conduct analyses and prioritize target regions for delivery of programs, policies, and activities that include criteria related to human health and salmon recovery data as provided in section 9 of this act.~~

**NEW SECTION. Sec. 9.** A new section is added to chapter 76.15 RCW to read as follows:

(1) The department must conduct analyses of the needs and opportunities related to urban forestry in Washington by assessing tree canopy cover and urban forestry inventory data.

(a) The department must utilize existing recent tree canopy study and inventory data when available.

(b) The department may add additional canopy analysis in regions where adequate data is not available through internal analysis and the use of research consultants as needed.

(c) In collaboration with local governments, the department may conduct prioritized inventories of urban forests where adequate data is not available.

(2) The department must identify priority regions for the implementation of urban forestry programs. Priority must be determined through the use and review of analyses and tools including, but not limited to, the following:

(a) Canopy analysis and inventory of urban and community forestry data as determined in subsection (1)(a) of this section;

(b) Health disparity mapping tools that identify highly impacted communities such as the department of health's Washington tracking network. Communities should be identified at the census tract level;

(c) Salmon and orca recovery data including, but not limited to, the Puget Sound partnership action agenda and other regional and statewide salmon and orca recovery plans and efforts, to target program delivery in areas where there are significant opportunities related to salmon and orca habitat and health; and

(d) The department's 20-year forest health strategic plan.

(3) The department may consult with external experts as part of the review and analysis that will determine priority regions for the purposes of this chapter. Consultation may be conducted with experts such as: Other state agencies; a statewide organization representing urban and community forestry programs; health experts; salmon recovery experts; and other technical experts as needed.

(4) The department must consult with the appropriate tribes in watersheds where urban forestry work is taking place.

(5) The department shall, through its analysis and consultation, seek to identify areas where urban forestry will generate the greatest confluence of benefits in relation to canopy needs, health disparities, and salmon habitat.

(6) The department must ensure a minimum of 50 percent of the resources used in delivering the policies, programs, and activities of this chapter are benefiting vulnerable populations and are delivered in or within one-quarter mile of highly impacted communities as identified by the tools described in subsection (2)(b) of this section, and scale these resources so the most resources are allocated to the highest impacted communities within

these areas. This includes resources for establishing and maintaining new trees as well as maintenance of existing tree canopy.

(7) The department shall conduct a statewide inventory of urban and community forests using urban forest inventory and assessment protocols established by the United States forest service to produce statistically relevant estimates of the quantity, health, composition, and benefits of urban trees and forests. Inventory data must be maintained and periodically updated.

NEW SECTION. **Sec. 10.** A new section is added to chapter 76.15 RCW to read as follows:

(1) The department must provide technical assistance and capacity building resources and opportunities to cities, counties, federally recognized tribes, and other public and private entities in the development and coordination of policies, programs, and activities for the promotion of urban and community forestry.

(2) The department may use existing urban and community forestry inventory tools or develop additional tools to assist cities, counties, federally recognized tribes, and other public and private entities to collect urban and community forest tree data that informs urban and community forestry management, planning, and policy development.

(3) The department shall strive to enable Washington cities' urban forest managers to access carbon markets by working to ensure tools developed under this section are compatible with existing and developing urban forest carbon market reporting protocols.

(4) The department may use existing tools to assist communities to develop urban forestry management plans. Management plans may include, but not be limited to, the following elements:

(a) Inventory and assessment of the jurisdiction's urban and community forests utilized as a dynamic management tool to set goals, implement programs, and monitor outcomes that may be adjusted over time;

(b) Canopy cover goals;

(c) Reforestation and tree canopy expansion goals within the city's, town's, and county's boundaries;

(d) Restoration of public forests;

(e) Achieving forest stand and diversity goals;

(f) Maximizing vegetated stormwater management with trees and other vegetation that reduces runoff, increases soil infiltration, and reduces stormwater pollution;

(g) Environmental health goals specific to air quality, habitat for wildlife, and energy conservation;

(h) Vegetation management practices and programs to prevent vegetation from interfering with or damaging utilities and public facilities;

(i) Prioritizing planting sites;

(j) Standards for tree selection, siting, planting, and pruning;

(k) Scheduling maintenance and stewardship for new and established trees;

(l) Staff and volunteer training requirements emphasizing appropriate expertise and professionalism;

(m) Guidelines for protecting existing trees from construction-related damage and damage related to preserving territorial views;

(n) Integrating disease and pest management;

(o) Wood waste utilization;

(p) Community outreach, participation, education programs, and partnerships with nongovernment organizations;

(q) Time frames for achieving plan goals, objectives, and tasks;

(r) Monitoring and measuring progress toward those benchmarks and goals;

(s) Consistency with the urban wildland interface codes developed by the state building code council;

(t) Emphasizing landscape and revegetation plans in residential and commercial development areas where tree retention objectives are challenging to achieve; and

(u) Maximizing building heating and cooling energy efficiency through appropriate siting of trees for summer shading, passive solar heating in winter, and for wind breaks.

(5) The department may use existing tools to assist communities to develop urban forestry ordinances. Ordinances may include, but not be limited to, the following elements:

(a) Tree canopy cover, density, and spacing;

(b) Tree conservation and retention;

(c) Vegetated stormwater runoff management using native trees and appropriate nonnative, nonnaturalized vegetation;

(d) Clearing, grading, protection of soils, reductions in soil compaction, and use of appropriate soils with low runoff potential and high infiltration rates;

(e) Appropriate tree siting and maintenance for vegetation management practices and programs to prevent vegetation from interfering with or damaging utilities and public facilities;

(f) Native species and nonnative, nonnaturalized species diversity selection to reduce disease and pests in urban forests;

(g) Tree maintenance;

(h) Street tree installation and maintenance;

(i) Tree and vegetation buffers for riparian areas, critical areas, transportation and utility corridors, and commercial and residential areas;

(j) Tree assessments for new construction permitting;

(k) Recommended forest conditions for different land use types;

(l) Variances for hardship and safety;

(m) Variances to avoid conflicts with renewable solar energy infrastructure, passive solar building design, and locally grown produce; and

(n) Permits and appeals.

(6) The department may consult with the department of commerce in the process of providing technical assistance, on issues including, but not limited to, intersections between urban forestry programs and growth management act planning.

(7) The department may use existing and develop additional innovative tools to facilitate successful implementation of urban forestry programs including, but

not limited to, comprehensive tool kit packages (tree kits) that can easily be shared, locally adapted, and used by cities, counties, tribes, and community stakeholders.

(8) The department must encourage communities to include participation and input by vulnerable populations through community organizations and members of the public for urban and community forestry plans in the regions where they are based.

(9) Delivery of resources must be targeted based on the analysis and prioritization provided in section 9 of this act.

**Sec. 11.** RCW 76.15.090 and 2008 c 299 s 8 are each amended to read as follows:

(1) The department shall manage the application and evaluation of candidates for evergreen community designation ((under RCW 35.105.030, and forward its recommendations to the department of community, trade, and economic development)).

(2) The department shall develop the criteria for an evergreen community designation program. Under this program, the state may recognize as an evergreen community a city, county, or area of tribal land that has developed an excellent urban forest management program.

(3) Designation as an evergreen community must include no fewer than two graduated steps. The department may require additional graduated steps and establish the minimum requirements for each recognized step.

(a) The first graduated step of designation as an evergreen community includes satisfaction of the following requirements:

(i) The development and implementation of a tree board or tree department;

(ii) The development of a tree care ordinance;

(iii) The implementation of an urban forestry program with an annual budget of at least \$2.00 for every city resident;

(iv) Official recognition of arbor day; and

(v) The completion of or update to an existing urban forest inventory for the city, county, or tribal land, or the formal adoption of an inventory developed

for the city, county, or tribe by the department.

(b) The second graduated step of designation as an evergreen community includes the adoption of an urban forestry management plan. The management plan must:

(i) Exceed the minimum standards determined by the department; and

(ii) Incorporate meaningful community engagement from vulnerable populations located in the area so needs and priorities of these communities inform implementation of the plan.

(4) The department shall develop gateway signage and logos for an evergreen community.

(5) The department may consult with the department of commerce in carrying out the requirements of this section.

**Sec. 12.** RCW 35.92.390 and 2008 c 299 s 19 are each amended to read as follows:

(1) Municipal utilities under this chapter are encouraged to provide information to their customers regarding landscaping that includes tree planting for energy conservation.

(2)(a) Municipal utilities under this chapter are 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))~~ urban forestry ordinances, as that term is defined in RCW ~~((35.105.010))~~ 76.15.010, for cities, towns, or counties within their service areas; or

(ii) Complete projects consistent with the ~~((model evergreen community))~~ urban forestry management plans and ordinances developed under RCW ~~((35.105.050))~~ 76.15.090.

(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.

**Sec. 13.** RCW 35A.80.040 and 2008 c 299 s 20 are each amended to read as follows:

(1) Code cities providing utility services under this chapter are encouraged to provide information to their customers regarding landscaping that includes tree planting for energy conservation.

(2)(a) Code cities providing utility services under this chapter are 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 a request for a voluntary donation.

(b) Voluntary donations collected by code cities under this section may be used by the code city to:

(i) Support the development and implementation of ~~((evergreen community))~~ urban forestry ordinances, as that term is defined in RCW ~~((35.105.010))~~ 76.15.010, for cities, towns, or counties within their service areas; or

(ii) Complete projects consistent with the ~~((model evergreen community))~~ urban forestry management plans and ordinances developed under RCW ~~((35.105.050))~~ 76.15.090.

(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.

**Sec. 14.** 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 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))~~ urban forestry ordinances, as that term is defined in RCW ~~((35.105.010))~~ 76.15.010, for cities, towns, or counties within their service areas; or

(ii) Complete projects consistent with the ~~((model evergreen community))~~ urban forestry management plans and ordinances developed under RCW ~~((35.105.050))~~ 76.15.090.

(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.

**Sec. 15.** RCW 89.08.520 and 2008 c 299 s 27 are each amended to read as follows:

(1) In administering grant programs to improve water quality and protect habitat, the commission shall:

(a) Require grant recipients to incorporate the environmental benefits of the project into their grant applications;

(b) In its grant prioritization and selection process, consider:

(i) The statement of environmental benefits;

(ii) Whether, except as conditioned by RCW 89.08.580, the applicant is a Puget Sound partner, as defined in RCW 90.71.010, and except as otherwise provided in RCW 89.08.590, and effective one calendar year following the development and statewide availability of ~~((model evergreen community))~~ urban forestry management plans and ordinances under RCW ~~((35.105.050))~~ 76.15.090, whether the applicant is an entity that has been recognized, and what gradation of recognition was received, in the evergreen community ~~((recognition))~~ designation program created in RCW ~~((35.105.030))~~ 76.15.090; and

(iii) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310; and

(c) Not provide funding, after January 1, 2010, for projects designed to address the restoration of Puget Sound that are in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(2)(a) The commission shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grant program.

(b) The commission shall work with the districts to develop uniform performance measures across participating districts and, to the extent possible, the commission should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The commission shall consult with affected interest groups in implementing this section.

**Sec. 16.** RCW 79.105.150 and 2019 c 415 s 986 are each amended to read as follows:

(1) After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.115.150(2), all moneys received by the state from the sale or lease of state-owned aquatic lands and from the sale of valuable material from state-owned aquatic lands shall be deposited in the aquatic lands enhancement account which is hereby created in the state treasury. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to the lands; and for volunteer cooperative fish and game projects. During the 2017-2019 and 2019-2021 fiscal biennia, the aquatic lands enhancement account may be used to support the shellfish program, the ballast water program, hatcheries, the Puget Sound toxic sampling program and steelhead mortality research at the department of fish and wildlife, the knotweed program at the department of agriculture, actions at the University of Washington for reducing ocean acidification, which may include the creation of a center on ocean acidification, the Puget Sound Corps program, and support of the marine resource advisory council and the Washington coastal marine advisory council. During the 2017-2019 and 2019-2021 fiscal biennia, the legislature may transfer from the aquatic lands enhancement account to the geoduck aquaculture research account for research related to shellfish aquaculture. During the 2015-2017 fiscal biennium, the legislature may transfer moneys from the aquatic lands enhancement

account to the marine resources stewardship trust account.

(2) In providing grants for aquatic lands enhancement projects, the recreation and conservation funding board shall:

(a) Require grant recipients to incorporate the environmental benefits of the project into their grant applications;

(b) Utilize the statement of environmental benefits, consideration, except as provided in RCW 79.105.610, of whether the applicant is a Puget Sound partner, as defined in RCW 90.71.010, whether a project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310, and except as otherwise provided in RCW 79.105.630, and effective one calendar year following the development and statewide availability of (~~model evergreen community~~) urban forestry management plans and ordinances under RCW ((35.105.050)) 76.15.090, whether the applicant is an entity that has been recognized, and what gradation of recognition was received, in the evergreen community (~~recognition~~) designation program created in RCW ((35.105.030)) 76.15.090 in its prioritization and selection process; and

(c) Develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grants.

(3) To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270.

(4) The department shall consult with affected interest groups in implementing this section.

(5) Any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

**Sec. 17.** RCW 43.155.120 and 2008 c 299 s 30 are each amended to read as follows:

When administering funds under this chapter, the board shall give preference only to an evergreen community recognized under RCW (~~35.105.030~~) 76.15.090 in

comparison to other entities that are eligible to receive evergreen community designation. Entities not eligible for designation as an evergreen community shall not be given less preferential treatment than an evergreen community.

**Sec. 18.** RCW 70A.135.070 and 2020 c 20 s 1380 are each amended to read as follows:

(1) When making grants or loans for water pollution control facilities, the department shall consider the following:

(a) The protection of water quality and public health;

(b) The cost to residential ratepayers if they had to finance water pollution control facilities without state assistance;

(c) Actions required under federal and state permits and compliance orders;

(d) The level of local fiscal effort by residential ratepayers since 1972 in financing water pollution control facilities;

(e) Except as otherwise conditioned by RCW 70A.135.110, whether the entity receiving assistance is a Puget Sound partner, as defined in RCW 90.71.010;

(f) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310;

(g) Except as otherwise provided in RCW 70A.135.120, and effective one calendar year following the development and statewide availability of (~~model evergreen community~~) urban forestry management plans and ordinances under RCW ((35.105.050)) 76.15.090, whether the project is sponsored by an entity that has been recognized, and what gradation of recognition was received, in the evergreen community (~~recognition~~) designation program created in RCW ((35.105.030)) 76.15.090;

(h) The extent to which the applicant county or city, or if the applicant is another public body, the extent to which the county or city in which the applicant public body is located, has established programs to mitigate nonpoint pollution of the surface or subterranean water sought to be protected by the water pollution control facility named in the application for state assistance; and

(i) The recommendations of the Puget Sound partnership, created in RCW



90.71.210, and any other board, council, commission, or group established by the legislature or a state agency to study water pollution control issues in the state.

(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 a grant or loan for water pollution control facilities unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. A county, city, or town that has adopted a comprehensive plan and development regulations as provided in RCW 36.70A.040 may request a grant or loan for water pollution control facilities. 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 a grant or loan 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 is not prohibited from receiving a grant or loan under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before the department executes a contractual agreement for the grant or loan.

(3) Whenever the department is considering awarding grants or loans 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, it shall 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) After January 1, 2010, any project designed to address the effects of water pollution on Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

**Sec. 19.** RCW 79A.15.040 and 2016 c 149 s 4 are each amended to read as follows:

(1) Moneys appropriated for this chapter prior to July 1, 2016, to the habitat conservation account shall be distributed in the following way:

(a) Not less than forty percent through June 30, 2011, at which time the amount shall become forty-five percent, for the acquisition and development of critical habitat;

(b) Not less than thirty percent for the acquisition and development of natural areas;

(c) Not less than twenty percent for the acquisition and development of urban wildlife habitat; and

(d) Not less than ten percent through June 30, 2011, at which time the amount shall become five percent, shall be used by the board to fund restoration and enhancement projects on state lands. Only the department of natural resources and the department of fish and wildlife may apply for these funds to be used on existing habitat and natural area lands.

(2) Moneys appropriated beginning July 1, 2016, for this chapter to the habitat conservation account shall be distributed in the following way:

(a) Not less than thirty-five percent for the acquisition and development of critical habitat;

(b) Not less than twenty-five percent for the acquisition and development of natural areas;

(c) Not less than fifteen percent for the acquisition or enhancement or restoration of riparian habitat;

(d) Not less than fifteen percent for the acquisition and development of urban wildlife habitat; and

(e) Not less than ten percent or three million dollars, whichever is less, for the board to fund restoration and enhancement projects on state lands. Any amount above three million dollars must be distributed for the purposes of (c) of this subsection.

(3)(a) In distributing these funds, the board retains discretion to meet the most pressing needs for critical habitat, natural areas, riparian protection, and urban wildlife habitat, and is not required to meet the percentages

described in subsections (1) and (2) of this section in any one biennium.

(b) If not enough project applications are submitted in a category within the habitat conservation account to meet the percentages described in subsections (1) and (2) of this section in any biennium, the board retains discretion to distribute any remaining funds to the other categories within the account.

(4) State agencies and nonprofit nature conservancies may apply for acquisition and development funds for natural areas projects under subsection (1)(b) of this section.

(5) State and local agencies and nonprofit nature conservancies may apply for acquisition and development funds for critical habitat, urban wildlife habitat, and riparian protection projects under this section. Other state agencies not defined in RCW 79A.15.010, such as the department of transportation and the department of corrections, may enter into interagency agreements with state agencies to apply in partnership for riparian protection funds under this section.

(6) The department of natural resources, the department of fish and wildlife, and the state parks and recreation commission may apply for restoration and enhancement funds to be used on existing state-owned lands.

(7)(a) Any lands that have been acquired with grants under this section by the department of fish and wildlife are subject to an amount in lieu of real property taxes and an additional amount for control of noxious weeds as determined by RCW 77.12.203.

(b) Any lands that have been acquired with grants under this section by the department of natural resources are subject to payments in the amounts required under the provisions of RCW 79.70.130 and 79.71.130.

(8) Except as otherwise conditioned by RCW 79A.15.140 or 79A.15.150, the board in its evaluating process shall consider the following in determining distribution priority:

(a) Whether the entity applying for funding is a Puget Sound partner, as defined in RCW 90.71.010;

(b) Effective one calendar year following the development and statewide availability of ~~((model—evergreen~~

~~community))~~ urban forestry management plans and ordinances under RCW ~~((35.105.050))~~ 76.15.090, whether the entity receiving assistance has been recognized, and what gradation of recognition was received, in the evergreen community ~~((recognition))~~ designation program created in RCW ~~((35.105.030))~~ 76.15.090; and

(c) Whether the project is referenced in the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(9) After January 1, 2010, any project designed to address the restoration of Puget Sound may be funded under this chapter only if the project is not in conflict with the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

**Sec. 20.** RCW 36.01.260 and 2008 c 299 s 15 are each amended to read as follows:

(1) Any county may adopt ~~((evergreen community))~~ urban forestry ordinances, as that term is defined in RCW ~~((35.105.010))~~ 76.15.010, which the county must apply to new building or land development in the unincorporated portions of the county's urban growth areas, as that term is defined in RCW 36.70A.030, and may apply to other areas of the county as deemed appropriate by the county.

(2) As an alternative to subsection (1) of this section, a city or town may request that the county in which it is located apply to any new building or land development permit in the unincorporated portions of the urban growth areas, as defined in RCW 36.70A.030, the ~~((evergreen community))~~ urban forestry ordinances standards adopted under RCW ~~((35.105.090))~~ 76.15.090 by the city or town in the county located closest to the proposed building or development.

**Sec. 21.** 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))~~ urban forestry ordinances, as that term is defined in RCW ~~((35.105.010))~~ 76.15.010, for cities, towns, or counties within their service areas; or

(b) Complete projects consistent with the ~~((model evergreen community))~~ urban forestry management plans and ordinances developed under RCW ~~((35.105.050))~~ 76.15.090.

(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. 22.** RCW 89.08.590 and 2008 c 299 s 32 are each amended to read as follows:

When administering funds under this chapter, the commission shall give preference only to an evergreen community recognized under RCW ~~((35.105.030))~~ 76.15.090 in comparison to other entities that are eligible to receive evergreen community designation. Entities not eligible for designation as an evergreen community shall not be given less preferential treatment than an evergreen community.

**Sec. 23.** RCW 79.105.630 and 2008 c 299 s 33 are each amended to read as follows:

When administering funds under this chapter, the recreation and conservation funding board shall give preference only to an evergreen community recognized under RCW ~~((35.105.030))~~ 76.15.090 in comparison to other entities that are eligible to receive evergreen community designation. Entities not eligible for designation as an evergreen community shall not be given less preferential treatment than an evergreen community.

**Sec. 24.** RCW 79A.15.150 and 2008 c 299 s 34 are each amended to read as follows:

When administering funds under this chapter, the recreation and conservation funding board shall give preference only to an evergreen community recognized under RCW ~~((35.105.030))~~ 76.15.090 in comparison to other entities that are eligible to receive evergreen community designation. Entities not eligible for designation as an evergreen community shall not be given less preferential treatment than an evergreen community.

**NEW SECTION. Sec. 25.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void.

**NEW SECTION. Sec. 26.** The following acts or parts of acts are each repealed:

(1)RCW 35.105.010 (Definitions) and 2009 c 565 s 21 & 2008 c 299 s 2;

(2)RCW 35.105.020 (Coordination with department of natural resources) and 2008 c 299 s 6;

(3)RCW 35.105.030 (Evergreen community recognition program) and 2008 c 299 s 7;

(4)RCW 35.105.040 (Evergreen community grant and competitive awards program) and 2008 c 299 s 9;

(5)RCW 35.105.050 (Development of model evergreen community management plans and ordinances) and 2008 c 299 s 10;

(6)RCW 35.105.060 (Report to the legislature) and 2008 c 299 s 11;

(7)RCW 35.105.070 (Model evergreen community management plans—Elements to consider) and 2008 c 299 s 12;

(8)RCW 35.105.080 (Model evergreen community ordinances—Elements to consider) and 2008 c 299 s 13;

(9)RCW 35.105.090 (Evergreen community management plans and ordinances—Local jurisdictions may adopt) and 2008 c 299 s 14;

(10)RCW 35.105.100 (Submission and review of management plans and evergreen community ordinances) and 2008 c 299 s 16;

(11)RCW 35.105.110 (Evergreen communities partnership task force) and 2008 c 299 s 17;

(12)RCW 35.105.120 (Limitations of chapter) and 2008 c 299 s 18;

(13)RCW 76.15.070 (Prioritized statewide inventory of community and urban forests—Community and urban forest assessment—Criteria and implementation plan) and 2008 c 299 s 4; and

(14)RCW 76.15.080 (Technical advisory committee) and 2008 c 299 s 5."

On page 1, line 1 of the title, after "forestry;" strike the remainder of the title and insert "amending RCW 76.15.005,

76.15.007, 76.15.010, 76.15.020,  
 76.15.030, 76.15.050, 76.15.060,  
 76.15.090, 35.92.390, 35A.80.040,  
 80.28.300, 89.08.520, 79.105.150,  
 43.155.120, 70A.135.070, 79A.15.040,  
 36.01.260, 54.16.400, 89.08.590,  
 79.105.630, and 79A.15.150; adding new  
 sections to chapter 76.15 RCW; creating  
 new sections; and repealing RCW  
 35.105.010, 35.105.020, 35.105.030,  
 35.105.040, 35.105.050, 35.105.060,  
 35.105.070, 35.105.080, 35.105.090,  
 35.105.100, 35.105.110, 35.105.120,  
 76.15.070, and 76.15.080."

and the same is herewith transmitted.

Sarah Bannister, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1216 and advanced the bill, as amended by the Senate, to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Ramos spoke in favor of the passage of the bill.

Representatives Orcutt, Sutherland and Walsh spoke against the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1216, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1216, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 61; Nays, 37; Absent, 0; Excused, 0.

Voting yea: Representatives Bateman, Berg, Bergquist, Berry, Bronoske, Callan, Chapman, Chopp, Cody, Davis, Dolan, Duerr, Entenman, Fey, Fitzgibbon, Frame, Gilday, Goodman, Gregerson, Hackney, Hansen, Harris-Talley, J. Johnson, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Morgan, Mosbrucker, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Rude, Rule, Ryu, Santos, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Stokesbary, Stonier, Sullivan, Taylor, Thai, Tharinger, Valdez, Walen, Wicks, Wylie and Mme. Speaker.

Voting nay: Representatives Abbarno, Barkis, Boehnke, Caldier, Chambers, Chandler, Chase, Corry, Dent, Dufault, Dye, Eslick, Goehner, Graham, Griffey, Harris, Hoff, Jacobsen, Klicker, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, McEntire, Orcutt, Robertson,

Schmick, Steele, Sutherland, Vick, Volz, Walsh, Wilcox, Ybarra and Young.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1216, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 3, 2021

Madame Speaker:

The Senate has passed ENGROSSED HOUSE BILL NO. 1311 with the following amendment:

Strike everything after the enacting clause and insert the following:

"**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~~)):

((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."

On page 1, line 3 of the title, after "programs;" strike the remainder of the title and insert "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."

and the same is herewith transmitted.

Sarah Bannister, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED HOUSE BILL NO. 1311 and advanced the bill, as amended by the Senate, to final passage.

#### FINAL PASSAGE OF HOUSE BILL

**AS SENATE AMENDED**

Representatives Bronoske and Schmick spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Engrossed House Bill No. 1311, as amended by the Senate.

**ROLL CALL**

The Clerk called the roll on the final passage of Engrossed House Bill No. 1311, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 87; Nays, 11; Absent, 0; Excused, 0.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Callan, Chambers, Chapman, Chopp, Cody, Corry, Davis, Dolan, Duerr, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, J. Johnson, Kirby, Klicker, Klippert, Kloba, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Vick, Volz, Walen, Wicks, Wilcox, Wylie, Young and Mme. Speaker.

Voting nay: Representatives Caldier, Chandler, Chase, Dent, Dufault, Kraft, Kretz, McCaslin, McEntire, Walsh and Ybarra.

ENGROSSED HOUSE BILL NO. 1311, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

April 8, 2021

Madame Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1355 with the following amendment:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 17.10.010 and 1997 c 353 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) "Noxious weed" means a plant that when established is highly destructive, competitive, or difficult to control by cultural or chemical practices.

(2) "State noxious weed list" means a list of noxious weeds adopted by the

state noxious weed control board. The list is divided into three classes:

(a) Class A consists of those noxious weeds not native to the state that are of limited distribution or are unrecorded in the state and that pose a serious threat to the state;

(b) Class B consists of those noxious weeds not native to the state that are of limited distribution or are unrecorded in a region of the state and that pose a serious threat to that region;

(c) Class C consists of any other nonnative to Washington state noxious weeds.

(3) "Person" means any individual, partnership, corporation, firm, the state or any department, agency, or subdivision thereof, or any other entity.

(4) "Owner" means the person in actual control of property including, but not limited to, deeded parcels, public rights-of-way, and undefined lots, or his or her agent, whether the control is based on legal or equitable title or on any other interest entitling the holder to possession and, for purposes of liability, pursuant to RCW 17.10.170 or 17.10.210, means the possessor of legal or equitable title or the possessor of an easement: PROVIDED, That when the possessor of an easement has the right to control or limit the growth of vegetation within the boundaries of an easement, only the possessor of the easement is deemed, for the purpose of this chapter, an "owner" of the property within the boundaries of the easement.

(5) As pertains to the duty of an owner, the words "control", "contain", "eradicate", and the term "prevent the spread of noxious weeds" means conforming to the standards of noxious weed control or prevention in this chapter or as adopted by rule in chapter 16-750 WAC by the state noxious weed control board and an activated county noxious weed control board.

(6) "Agent" means any occupant or any other person acting for the owner and working or in charge of the land.

(7) "Agricultural purposes" are those that are intended to provide for the growth and harvest of food and fiber.

(8) "Director" means the director of the department of agriculture or the director's appointed representative.

(9) "Weed district" means a weed district as defined in chapters 17.04 and 17.06 RCW.

(10) "Aquatic noxious weed" means an aquatic plant species that is listed on the state weed list under RCW 17.10.080.

(11) "Screenings" means a mixture of mill or elevator run mixture or a combination of varying amounts of materials obtained in the process of cleaning either grain or seeds, or both, such as light or broken grain or seed, weed seeds, hulls, chaff, joints, straw, elevator dust, floor sweepings, sand, and dirt.

(12) "Assessment" means a special assessment levied by a county legislative authority pursuant to RCW 17.10.240.

(13) "Centerline miles" means the length of any given road right-of-way corridor in miles, along the center line of the overall roadway alignment.

(14) "Parcel" means real property having a parcel number or deeded real property, undefined lot, a lot having a legal description, or right-of-way owned or held by the state, county, or city.

**Sec. 2.** RCW 17.10.030 and 1997 c 353 s 4 are each amended to read as follows:

There is created a state noxious weed control board comprised of nine voting members and ~~((three))~~ four nonvoting members. Four of the voting members shall be elected by the members of the various activated county noxious weed control boards, and shall be residents of a county in which a county noxious weed control board has been activated and a member of said board, and those qualifications shall continue through their term of office. Two of these members shall be elected from the west side of the state, the crest of the Cascades being the dividing line, and two from the east side of the state. The director of agriculture is a voting member of the board. One voting member shall be elected by the directors of the various active weed districts formed under chapter 17.04 or 17.06 RCW. The Washington state association of counties appoints one voting member who shall be a member of a county legislative authority. A statewide association representing county noxious weed coordinators appoints a nonvoting technical advisor. The director shall appoint two voting members to represent the public interest, one from the west

side and one from the east side of the state. The director shall also appoint three nonvoting members representing scientific disciplines relating to weed control. The term of office for all members of the board is ~~((three))~~ four years from the date of election or appointment.

The board, by rule, shall establish a position number for each elected position of the board and shall designate which county noxious weed control board members are eligible to vote for each elected position. The elected members serve staggered terms. Elections for the elected members of the board shall be held thirty days prior to the expiration date of their respective terms. Nominations and elections shall be by mail and conducted by the board.

The board shall conduct its first meeting within thirty days after all its members have been elected. The board shall elect from its members a chair and other officers as may be necessary. A majority of the voting members of the board constitutes a quorum for the transaction of business and is necessary for any action taken by the board. The members of the board serve without salary, but shall be reimbursed for travel expenses incurred in the performance of their duties under this chapter in accordance with RCW 43.03.050 and 43.03.060.

**Sec. 3.** RCW 17.10.050 and 1997 c 353 s 6 are each amended to read as follows:

(1) Each activated county noxious weed control board consists of five voting members appointed by the county legislative authority in the manner prescribed in this section. In appointing the voting members, the county legislative authority shall divide the county into five geographical areas that best represent the county's interests, and appoint a voting member from each geographical area. At least ~~((four))~~ three of the voting members shall be engaged in the primary production of agricultural products. There is one nonvoting member on the board who is the ~~((chair))~~ director of the county extension office or an extension agent appointed by the ~~((chair))~~ director of the county extension office. Each voting member of the board serves a term of four years, except that the county legislative authority shall, when a board is first activated under this chapter, designate two voting members to serve terms of two

years. The board members shall not receive a salary but shall be compensated for actual and necessary expenses incurred in the performance of their official duties.

(2) (a) The voting members of the board serve until their replacements are appointed. New members of the board shall be appointed at least thirty days prior to the expiration of any board member's term of office.

(b) Notice of expiration of a term of office shall be published at least twice in a weekly or daily newspaper of general circulation in the ~~(section [geographical area])~~ geographical area with last publication occurring at least ten days prior to the nomination. All persons interested in appointment to the board and residing in the geographical area with a pending nomination shall make a written application that includes the signatures of at least ten registered voters residing in the geographical area supporting the nomination to the county noxious weed control board. After nominations close, the county noxious weed control board shall, after a hearing, send the applications to the county legislative authority recommending the names of the most qualified candidates, and post the names of those nominees in the county courthouse or county website and publish in at least one newspaper of general circulation in the county. The county legislative authority, within ~~(ten)~~ 60 days of receiving the list of nominees, shall appoint one of those nominees to the county noxious weed control board to represent that geographical area during that term of office. If the county legislative authority fails to appoint a nominee within the 60-day period and a quorum of the board is not seated, the county noxious weed control board shall appoint a nominee only to meet a quorum, who shall serve in that capacity until the county legislative authority appoints a nominee to fill the vacant position in the manner prescribed in this section. Not more than three board members may be appointed in this manner.

(3) Within thirty days after all the members have been appointed, the board shall conduct its first meeting. A majority of the voting members of the board constitutes a quorum for the transaction of business and is necessary for any action taken by the board. The board shall elect from its members a

chair and other officers as may be necessary.

(4) ~~In case of a vacancy (occurring in any voting position on a county noxious weed control board, the county legislative authority of the county in which the board is located shall appoint a qualified person to fill the vacancy for the unexpired term), the position must be filled in the manner prescribed in this section.~~

**Sec. 4.** RCW 17.10.060 and 1997 c 353 s 7 are each amended to read as follows:

(1) Each activated county noxious weed control board ~~(shall)~~ must employ or otherwise provide a weed coordinator whose duties are fixed by the board but which shall include inspecting land to determine the presence of noxious weeds, offering technical assistance and education, and developing a program to achieve compliance with the weed law. The weed coordinator may be employed full time, part time, or seasonally by the county noxious weed control board. County weed board employment practices shall comply with county personnel policies. Within sixty days from initial employment, the weed coordinator ~~(shall obtain a pest control consultant license, a pesticide operator license)~~ must obtain licensure consistent with Washington state department of agriculture pesticide license rules, and the necessary endorsements on the licenses as required by law. Each board may purchase, rent, or lease equipment, facilities, or products and may hire additional persons as it deems necessary for the administration of the county's noxious weed control program.

(2) Each activated county noxious weed control board has the power to adopt rules and regulations, subject to notice and hearing as provided in ~~(chapters)~~ chapter 42.30 (and 42.32) RCW, as are necessary for an effective county weed control or eradication program.

(3) Each activated county noxious weed control board shall meet with a quorum at least quarterly.

**Sec. 5.** RCW 17.10.070 and 1998 c 245 s 3 are each amended to read as follows:

(1) In addition to the powers conferred on the state noxious weed control board under other provisions of this chapter, it has the power to:



(a) Employ a state noxious weed control board executive secretary and educational specialist, and additional persons as it deems necessary, to disseminate information relating to noxious weeds to county noxious weed control boards and weed districts, to coordinate the educational and weed control efforts of the various county and regional noxious weed control boards and weed districts, and to assist the board in carrying out its responsibilities;

(b) Adopt, amend, or repeal rules, pursuant to the administrative procedure act, chapter 34.05 RCW, as may be necessary to carry out the duties and authorities assigned to the board by this chapter.

(2) The state noxious weed control board (~~shall~~) must provide a written report before January 1st of each odd-numbered year to the county noxious weed control boards and the weed districts showing the expenditure of state funds on noxious weed control; specifically how the funds were spent; the status of the state, county, and district programs; and recommendations for the continued best use of state funds for noxious weed control. The report (~~shall~~) must include recommendations as to the long-term needs regarding weed control.

**Sec. 6.** RCW 17.10.074 and 1997 c 353 s 9 are each amended to read as follows:

(1) In addition to the powers conferred on the director under other provisions of this chapter, the director, with the advice of the state noxious weed control board, has power to:

(a) Require the county legislative authority or the noxious weed control board of any county or any weed district to report to it concerning the presence, absence, or estimated amount of noxious weeds and measures, if any, taken or planned for the control thereof;

(b) Employ staff as may be necessary in the administration of this chapter;

(c) Adopt, amend, or repeal rules, pursuant to the administrative procedure act, chapter 34.05 RCW, as may be necessary to carry out this chapter;

(d) Do such things as may be necessary and incidental to the administration of its functions pursuant to this chapter including but not limited to surveying for and detecting noxious weed infestations(~~+~~

~~(e)~~).

(2) In addition to the powers conferred on the director under the provisions of this chapter, the director, with the advice of the state noxious weed control board, must:

(a) Upon receipt of a complaint signed by a majority of the members of an adjacent county noxious weed control board or weed district, or by one hundred registered voters that are land owners within the county, require the county legislative authority or noxious weed control board of the county or weed district that is the subject of the complaint to respond to the complaint within forty-five days with a plan for the control of the noxious weeds cited in the complaint;

~~((f))~~ (b) If the complaint in ~~((e))~~ (a) of this subsection involves a class A or class B noxious weed, order the county legislative authority, noxious weed control board, or weed district to take immediate action to eradicate or control the noxious weed infestation. If the county or the weed district does not take action to control the noxious weed infestation in accordance with the order, the director may control it or cause it to be controlled. The county or weed district is liable for payment of the expense of the control work including necessary costs and expenses for attorneys' fees incurred by the director in securing payment from the county or weed district. The director may bring a civil action in a court of competent jurisdiction to collect the expenses of the control work, costs, and attorneys' fees;

~~((g))~~ (c) In counties without an activated noxious weed control board, enter upon any property as provided for in RCW 17.10.160, issue or cause to be issued notices and citations and take the necessary action to control noxious weeds as provided in RCW 17.10.170, hold hearings on any charge or cost of control action taken as provided for in RCW 17.10.180, issue a notice of civil infraction as provided for in RCW 17.10.230 ~~((and))~~, 17.10.310 ~~((through and))~~, and 17.10.350, and place a lien on any property pursuant to RCW 17.10.280, 17.10.290, and 17.10.300 with the same authorities and responsibilities imposed by these sections on county noxious weed control boards;

~~((1))~~ (d) Adopt a list of noxious weed seeds and toxic weeds which shall be controlled in designated articles, products, or feed stuffs as provided for in RCW 17.10.235.

~~((2))~~ (3) The moneys appropriated for noxious weed control to the department shall be used for administration of the state noxious weed control board, the administration of the director's powers under this chapter, the purchase of materials for controlling, containing, or eradicating noxious weeds, the purchase or collection of biological control agents for controlling noxious weeds, and the contracting for services to carry out the purposes of this chapter. In a county with an activated noxious weed control board, the director shall make every effort to contract with that board for the needed services.

~~((3))~~ (4) If the director determines the need to reallocate funds previously designated for county use, the director shall convene a meeting of the state noxious weed control board to seek its advice concerning any reallocation.

**Sec. 7.** RCW 17.10.100 and 1997 c 353 s 12 are each amended to read as follows:

Where any of the following occur, the state noxious weed control board ~~((may, following))~~ must hold a hearing, then may order any county noxious weed control board or weed district to include a noxious weed from the state board's list in the county's noxious weed list:

(1) Where the state noxious weed control board receives a petition from at least one hundred registered voters within the county requesting that the weed be listed.

(2) Where the state noxious weed control board receives a request for inclusion from an adjacent county's noxious weed control board or weed district, which the adjacent board or district has included that weed in its county or district list, and the adjacent board or weed district ~~((alleges))~~ documents that its noxious weed control program is being hampered by the failure to include the weed on the county's noxious weed list.

**Sec. 8.** RCW 17.10.140 and 1997 c 353 s 17 are each amended to read as follows:

(1) Except as is provided under subsection (2) of this section, every

owner ~~((shall))~~ must perform or cause to be performed those acts as may be necessary to:

(a) Eradicate all class A noxious weeds;

(b) Control and prevent the spread of all class B noxious weeds designated for control in that region within and from the owner's property; and

(c) Control and prevent the spread of all class B and class C noxious weeds listed on the county weed list as locally mandated control priorities within and from the owner's property.

(2) ~~((Forestlands))~~ Every owner of forestlands classified under RCW 17.10.240(2), or meeting the definition of forestlands contained in RCW 17.10.240, ~~((are subject to the requirements of subsection (1)(a) and (b) of this section at all times. Forestlands are subject to the requirements of subsection (1)(c) of this section only within a one thousand foot buffer strip of adjacent land uses. In addition, forestlands are subject to subsection (1)(c) of this section for))~~ must perform or cause to be performed those acts as may be necessary to:

(a) Eradicate all class A noxious weeds;

(b) Control and prevent the spread of all class B noxious weeds designated for control in that region within and from the owner's property; and

(c) Control and prevent the spread of all class B and class C noxious weeds listed on the county weed list as locally mandated control priorities within and from the owner's property only when encountered in any of the following enumerated circumstances:

(i) Within 1,000 feet of adjacent land uses;

(ii) Within 25 feet of all privately owned roads unless properly abandoned as defined under WAC 222-24-052 as that section existed as of January 1, 2020;

(iii) Within 200 feet of navigable rivers, gravel pits, log yards, and staging areas, except when not allowed under other state or federal laws or regulations; and

(iv) For a single five-year period within harvested areas following the harvesting of trees for ~~((lumber))~~ products.

**Sec. 9.** RCW 17.10.145 and 2019 c 353 s 4 are each amended to read as follows:

(1) All state agencies shall control noxious weeds on lands they own, lease, or otherwise control through integrated pest management practices. Agencies shall develop plans in cooperation with county noxious weed control boards to control noxious weeds in accordance with standards in this chapter. Agencies shall appoint a liaison whose duties include serving as a common point of contact for all weed boards and developing and implementing noxious weed control plans.

(2) All state agencies' lands must comply with this chapter, regardless of noxious weed control efforts on adjacent lands.

(3) While conducting planned projects to ensure compliance with this chapter, all agencies must give preference, when deemed appropriate by the acting agency for the project and targeted resource management goals, to replacing noxious weeds with native forage plants that are pollen-rich or nectar-rich and beneficial for all pollinators, including honey bees.

**Sec. 10.** RCW 17.10.205 and 1997 c 353 s 24 are each amended to read as follows:

Open areas subject to the spread of noxious weeds, including but not limited to subdivisions, school grounds, playgrounds, parks, and rights-of-way shall be subject to regulation (~~by activated county noxious weed control boards~~) in the same manner and to the same extent as is provided for all terrestrial and aquatic lands of the state.

**Sec. 11.** RCW 17.10.235 and 1997 c 353 s 26 are each amended to read as follows:

(1) The director of agriculture shall adopt, with the advice of the state noxious weed control board, rules designating noxious weed seeds which shall be controlled in products, screenings, or articles to prevent the spread of noxious weeds. The rules shall identify the products, screenings, and articles in which the seeds must be controlled and the maximum amount of the seed to be permitted in the product, screenings, or article to avoid a hazard of spreading the noxious weed by seed from the product, screenings, or article. The director shall also adopt, with the advice of the state board, rules designating toxic weeds which shall be

controlled in feed stuffs and screenings to prevent injury to the animal that consumes the feed. The rules shall identify the feed stuffs and screenings in which the toxic weeds must be controlled and the maximum amount of the toxic weed to be permitted in the feed. Rules developed under this section shall identify ways that products, screenings, articles, or feed stuffs containing noxious weed seeds or toxic weeds can be made available for beneficial uses.

(2) Any person who knowingly or negligently sells or otherwise distributes a product, article, screenings, or feed stuff designated by rule containing noxious weed seeds or toxic weeds designated for control by rule and in an amount greater than the amount established by the director for the seed or weed by rule is guilty of a misdemeanor.

(3) The department of agriculture shall, upon request of the buyer, county weed board, or weed district, inspect products, screenings, articles, or feed stuffs designated by rule and charge fees, in accordance with chapter 22.09 RCW, to determine the presence of designated noxious weed seeds or toxic weeds.

**Sec. 12.** RCW 17.10.240 and 1997 c 353 s 27 are each amended to read as follows:

(1)(a) The activated county noxious weed control board of each county shall annually submit a budget to the county legislative authority for the operating cost of the county's weed program for the ensuing fiscal year: PROVIDED, That if the board finds the budget approved by the legislative authority is insufficient for an effective county noxious weed control program (~~it shall petition the county legislative authority to hold a hearing as provided in RCW 17.10.890. Control of weeds is a benefit to the lands within any such section~~), the board may submit a budget amendment to the county legislative authority after which the county legislative authority must hold a hearing as provided in chapter 36.40 RCW. Activities and programs to limit economic loss and adverse effects due to the presence and spread of noxious weeds on all terrestrial and aquatic areas in the state are declared to be of special benefit, including to lands owned or held by the state, and may be used as the basis upon which special assessments are

imposed by the county legislative authority.

(b) Representatives from the department of transportation government relations, real estate services, and maintenance operations offices, the Washington state association of county treasurers, the Washington state association of county assessors, and the state noxious weed control board shall meet to develop a system by which parcels owned or held by the department of transportation that have been declared to receive special benefit from the county noxious weed control board must be identified and all assessments may be effectively billed for payment according to the process in chapter 79.44 RCW. The state noxious weed control board shall update the appropriate legislative committees regarding progress towards implementation of a system before January 1, 2022. By January 1, 2023, the state noxious weed control board shall report to the appropriate legislative committees in compliance with RCW 43.01.036 regarding the system developed, what steps are being taken to implement the system, and what, if any, further legislative action is needed.

(c) Funding for the budget is derived from any or all of the following:

~~((a))~~ (i) The county legislative authority may, in lieu of a tax, levy an assessment against the land for this purpose. Whenever there is included within the jurisdiction of any county noxious weed control board lands owned or held by the state, the county legislative authority shall determine the amount of the assessment for which the land would be liable if the land were in private ownership. Prior to the levying of an assessment the county noxious weed control board shall hold a public hearing at which it will gather information to serve as a basis for classification and then classify the lands into suitable classifications, including but not limited to dry lands, range lands, irrigated lands, nonuse lands, forestlands, or federal lands. The board shall develop and forward to the county legislative authority, as a proposed level of assessment for each class, an amount as seems just. The assessment rate shall be either uniform per acre in its respective class or a flat rate per parcel rate plus a uniform rate per acre or, for rights-of-way, a rate based on centerline miles: PROVIDED, That if no

benefits are found to accrue to a class of land, a zero assessment may be levied. The assessment shall not be levied on lands owned or held by the state, unless the assessment is levied on other parcels or classes of parcels. The county legislative authority, upon receipt of the proposed levels of assessment from the board, after a hearing, shall accept or modify by resolution, or refer back to the board for its reconsideration all or any portion of the proposed levels of assessment. The amount of the assessment constitutes a lien against the property. The county legislative authority may by resolution or ordinance require that notice of the lien be sent to each owner of property for which the assessment has not been paid by the date it was due and that each lien created be collected by the treasurer in the same manner as delinquent real property tax, if within thirty days from the date the owner is sent notice of the lien, including the amount thereof, the lien remains unpaid and an appeal has not been made pursuant to RCW 17.10.180. Liens treated as delinquent taxes bear interest at the rate of twelve percent per annum and the interest accrues as of the date notice of the lien is sent to the owner: PROVIDED FURTHER, That any collections for the lien shall not be considered as tax; or

~~((b))~~ (ii) The county legislative authority may appropriate money from the county general fund necessary for the administration of the county noxious weed control program. In addition the county legislative authority may make emergency appropriations as it deems necessary for the implementation of this chapter.

(2) Forestlands used solely for the planting, growing, or harvesting of trees and which are typified, except during a single period of five years following clear-cut logging, by canopies so dense as to prohibit growth of an understory may be subject to an annual noxious weed assessment levied by a county legislative authority that does not exceed one-tenth of the weighted average per acre noxious weed assessment levied on all other lands in unincorporated areas within the county that are subject to the weed assessment. This assessment shall be computed in accordance with the formula in subsection (3) of this section.

(3) The calculation of the "weighted average per acre noxious weed assessment" is a ratio expressed as follows:

(a) The numerator is the total amount of funds estimated to be collected from the per acre assessment on all lands except (i) forestlands as identified in subsection (2) of this section, (ii) lands exempt from the noxious weed assessment, and (iii) lands located in an incorporated area.

(b) The denominator is the total acreage from which funds in (a) of this subsection are collected. For lands of less than one acre in size, the denominator calculation may be based on the following assumptions: (i) Unimproved lands are calculated as being one-half acre in size on the average, and (ii) improved lands are calculated as being one-third acre in size on the average. The county legislative authority may choose to calculate the denominator for lands of less than one acre in size using other assumptions about average parcel size based on local information.

(4) For those counties that levy a per parcel assessment to help fund noxious weed control programs, the per parcel assessment on forestlands as defined in subsection (2) of this section shall not exceed one-tenth of the per parcel assessment on nonforestlands.

**Sec. 13.** RCW 17.10.890 and 1997 c 353 s 32 are each amended to read as follows:

~~((The following procedures shall be followed to deactivate a county noxious weed control board))~~ A county noxious weed control board may be deactivated only if there are neither any class A noxious weeds nor any class B noxious weeds in the county. Upon receiving documentation of the absence in the county of both class A noxious weeds and class B noxious weeds, the county legislative authority may initiate the following procedures:

(1) The county legislative authority holds a hearing to determine whether there continues to be a need for an activated county noxious weed control board if:

(a) A petition is filed by one hundred registered voters within the county;

(b) A petition is filed by a county noxious weed control board as provided in RCW 17.10.240; or

(c) The county legislative authority passes a motion to hold such a hearing.

(2) Except as provided in subsection (4) of this section, the hearing shall be held within sixty days of final action taken under subsection (1) of this section.

(3) If, after a hearing, the county legislative authority determines that no need exists for a county noxious weed control board, due to the absence of class A or class B noxious weeds designated for control in the region, the county legislative authority shall deactivate the board.

(4) The county legislative authority shall not convene a hearing as provided for in subsection (1) of this section more frequently than once a year.

**Sec. 14.** RCW 17.04.240 and 1957 c 13 s 2 are each amended to read as follows:

(1) The directors shall annually determine the amount of money necessary to carry on the operations of the district and shall classify the property therein in proportion to the benefits to be derived from the operations of the district and in accordance with such classification shall prorate the cost so determined and shall levy assessments to be collected with the general taxes of the county. In the event that any bonded or warrant indebtedness pledging tax revenue of the district shall be outstanding on April 1, 1951, the directors may, for the sole purpose of retiring such indebtedness, continue to levy a tax upon all taxable property in the district until such bonded or warrant indebtedness shall have been retired.

(2) Activities and programs to limit economic loss and adverse effects due to the presence and spread of noxious weeds on all terrestrial and aquatic areas in the state are declared to be of special benefit, including to lands owned or held by the state, and may be used as the basis upon which special assessments are imposed by the county legislative authority, including upon lands owned or held by the state.

**Sec. 15.** RCW 79.44.003 and 1999 c 153 s 68 are each amended to read as follows:

As used in this chapter "assessing district" means:

- (1) Incorporated cities and towns;
- (2) Diking districts;
- (3) Drainage districts;
- (4) Port districts;

- (5) Irrigation districts;
- (6) Water-sewer districts;
- (7) Counties; ~~((and))~~
- (8) Weed boards and weed districts;  
and

(9) Any municipal corporation or public agency having power to levy local improvement or other assessments, rates, or charges which by statute are expressly made applicable to lands of the state.

**Sec. 16.** RCW 17.04.180 and 1991 c 245 s 1 are each amended to read as follows:

Whenever any lands belonging to the county are included within a weed district, the county legislative authority shall determine the amount of the ~~((taxes))~~ assessment for which the lands would be liable if they were in private ownership, and the county legislative authority shall appropriate from the current expense fund of the county sufficient money to pay such amounts. Whenever any state lands are within any weed district, the county treasurer shall certify annually and forward to the appropriate state agency for payment a statement showing the amount of the ~~((tax))~~ assessment to which the lands would be liable if they were in private ownership, separately describing each lot or parcel and, if delinquent, with interest and penalties consistent with RCW 84.56.020.

**Sec. 17.** RCW 17.15.020 and 2015 c 225 s 16 are each amended to read as follows::

Each of the following state agencies or institutions or county agencies shall implement integrated pest management practices when carrying out the agency's or institution's duties related to pest control:

- (1) The department of agriculture;
- (2) The state noxious weed control board;
- (3) The department of ecology;
- (4) The department of fish and wildlife;
- (5) The department of transportation;
- (6) The parks and recreation commission;
- (7) The department of natural resources;
- (8) The department of corrections;

(9) The department of enterprise services; ~~((and))~~

(10) Each state institution of higher education, for the institution's own building and grounds maintenance;

(11) Each county noxious weed control board; and

(12) Each weed district."

On page 1, line 1 of the title, after "weeds;" strike the remainder of the title and insert "and amending RCW 17.10.010, 17.10.030, 17.10.050, 17.10.060, 17.10.070, 17.10.074, 17.10.100, 17.10.140, 17.10.145, 17.10.205, 17.10.235, 17.10.240, 17.10.890, 17.04.240, 79.44.003, 17.04.180, and 17.15.020."

and the same is herewith transmitted.

Sarah Bannister, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1355 and advanced the bill, as amended by the Senate, to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Dent and Shewmake spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1355, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1355, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chase, Chopp, Cody, Corry, Davis, Dent, Dolan, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, J. Johnson, Kirby, Klicker, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Vick,

Volz, Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra, Young and Mme. Speaker.

SUBSTITUTE HOUSE BILL NO. 1355, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

**MESSAGE FROM THE SENATE**

April 6, 2021

Madame Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1356 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"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."

On page 1, line 3 of the title, after "names;" strike the remainder of the title and insert "adding new sections to chapter 28A.320 RCW; creating new sections; and providing an expiration date."

and the same is herewith transmitted.

Sarah Bannister, Deputy, Secretary

#### **SENATE AMENDMENT TO HOUSE BILL**

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1356 and advanced the bill, as amended by the Senate, to final passage.

#### **FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED**

Representatives Lekanoff and Ybarra spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1356, as amended by the Senate.

#### **ROLL CALL**

The Clerk called the roll on the final passage of Substitute House Bill No. 1356, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 90; Nays, 8; Absent, 0; Excused, 0.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, Dent, Dolan, Duerr, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Jacobsen, J. Johnson, Kirby, Klicker, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Taylor, Thai, Tharinger, Valdez, Volz,



Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra, Young and Mme. Speaker.

Voting nay: Representatives Boehnke, Chase, Dufault, Hoff, Klippert, McCaslin, Sutherland and Vick.

SUBSTITUTE HOUSE BILL NO. 1356, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

April 3, 2021

Madame Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1373 with the following amendment:

Strike everything after the enacting clause and insert the following:

"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 drunk 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."

On page 1, line 2 of the title, after "resources;" strike the remainder of the title and insert "adding a new section to chapter 28A.320 RCW; and creating a new section."

and the same is herewith transmitted.

Sarah Bannister, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1373 and advanced the bill, as amended by the Senate, to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Callan and Ybarra spoke in favor of the passage of the bill.

The Speaker (Representative Lovick presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1373, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1373, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 92; Nays, 6; Absent, 0; Excused, 0.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chopp, Cody, Corry, Davis, Dent, Dolan, Duerr, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, J. Johnson, Kirby, Klicker, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Vick, Volz, Walen, Wicks, Wilcox, Wylie, Ybarra and Mme. Speaker.

Voting nay: Representatives Chase, Dufault, Kraft, McCaslin, Walsh and Young.

SUBSTITUTE HOUSE BILL NO. 1373, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

The Speaker (Representative Lovick presiding) called upon Representative Orwall to preside.

#### MESSAGE FROM THE SENATE

April 8, 2021

Madame Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1379 with the following amendment:

Strike everything after the enacting clause and insert the following:

"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) ~~((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.

~~((48))~~ (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 unpowered 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 unpowered 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.

~~((43))~~ (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.

~~((44))~~ (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.

~~((45))~~ (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."

On page 1, line 2 of the title, after "source;" strike the remainder of the title and insert "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."

and the same is herewith transmitted.

Sarah Bannister, Deputy, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1379 and advanced the bill, as amended by the Senate, to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Lovick and Barkis spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1379, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1379, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 93; Nays, 5; Absent, 0; Excused, 0.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chase, Chopp, Cody, Corry, Davis, Dent, Dolan, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, J. Johnson, Kirby, Klicker, Klippert, Kloba, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McEntire, Morgan, Mosbrucker, Orcutt, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Vick, Volz, Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra and Mme. Speaker.

Voting nay: Representatives Kraft, McCaslin, Ormsby, Robertson and Young.

SUBSTITUTE HOUSE BILL NO. 1379, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

#### MESSAGE FROM THE SENATE

March 29, 2021

Madame Speaker:

The Senate has passed SUBSTITUTE HOUSE BILL NO. 1383 with the following amendment:

Strike everything after the enacting clause and insert the following:

"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 2011 c 235 s 1 are each reenacted and amended to read as follows:

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

(1) "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, a physician assistant licensed under chapter 18.71A RCW, or an osteopathic physician assistant licensed under chapter 18.57A 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 18.89.020 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. 4.** 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. 5.** 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. 6.** 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. 7. Section 2 of this act expires July 1, 2022.

NEW SECTION. Sec. 8. Section 3 of this act takes effect July 1, 2022.

NEW SECTION. Sec. 9. Sections 1, 2, and 4 through 6 of this act take effect January 1, 2022."

On page 1, line 1 of the title after "practitioners;" strike the remainder of the title and insert "amending RCW 18.89.010, 18.89.020, 18.89.040, 18.89.050, and 18.89.090; reenacting and amending RCW 18.89.020; providing effective dates; and providing an expiration date."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to SUBSTITUTE HOUSE BILL NO. 1383 and advanced the bill, as amended by the Senate, to final passage.

### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representatives Taylor and Schmick spoke in favor of the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Substitute House Bill No. 1383, as amended by the Senate.

### ROLL CALL

The Clerk called the roll on the final passage of Substitute House Bill No. 1383, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Boehnke, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Chase, Chopp, Cody, Corry, Davis, Dent, Dolan, Duerr, Dufault, Dye, Entenman, Eslick, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Harris-Talley, Hoff, Jacobsen, J. Johnson, Kirby, Klicker, Klippert, Kloba, Kraft, Kretz, Leavitt, Lekanoff, Lovick, MacEwen, Macri, Maycumber, McCaslin, McEntire, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Schmick, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Steele, Stokesbary, Stonier, Sullivan, Sutherland, Taylor, Thai, Tharinger, Valdez, Vick, Volz, Walen, Walsh, Wicks, Wilcox, Wylie, Ybarra, Young and Mme. Speaker.

SUBSTITUTE HOUSE BILL NO. 1383, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

### MESSAGE FROM THE SENATE

April 7, 2021

Madame Speaker:

The Senate has passed ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1089 with the following amendment:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 43.101 RCW to read as follows:

(1) The office of the Washington state auditor is authorized to conduct a

process compliance audit procedure and review of any deadly force investigation conducted pursuant to RCW 10.114.011. At the conclusion of every deadly force investigation, the state auditor shall determine whether the actions of the involved law enforcement agency, investigative body, and prosecutor's office are in compliance with RCW 10.114.011, chapter 43.--- RCW (the new chapter created in section 601 of Engrossed Substitute House Bill No. 1267), and all rules adopted pursuant to these provisions for the investigation and reporting of incidents involving the use of deadly force. A deadly force investigation is concluded once the involved prosecutor's office makes a charging decision and any resulting criminal case reaches disposition. Audit procedures under this section shall be conducted in cooperation with the commission.

(2) The state auditor may not conduct an audit under this section until adequately staffed with subject matter expertise regarding law enforcement and investigative audits. Until that time, the state auditor shall contract with persons with the appropriate subject matter expertise and shall issue a request for proposal for contracting with a person or entity to provide adequate subject matter expertise.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.101 RCW to read as follows:

Upon the request of the commission, the office of the Washington state auditor is authorized to conduct an audit procedure on any law enforcement agency to ensure the agency is in compliance with all laws, policies, and procedures governing the training and certification of peace officers employed by the agency. A copy of any completed audit must be sent to the commission, law enforcement agency, city or county council, county prosecutor, and relevant committees of the legislature.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.101 RCW to read as follows:

A law enforcement agency shall not pay any costs or fees for an audit conducted pursuant to section 1 or 2 of this act.

**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."

On page 1, line 2 of the title, after "agencies;" strike the remainder of the title and insert "adding new sections to chapter 43.101 RCW; and creating a new section."

and the same is herewith transmitted.

Brad Hendrickson, Secretary

#### SENATE AMENDMENT TO HOUSE BILL

There being no objection, the House concurred in the Senate amendment to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1089 and advanced the bill, as amended by the Senate, to final passage.

#### FINAL PASSAGE OF HOUSE BILL AS SENATE AMENDED

Representative Ramos spoke in favor of the passage of the bill.

Representative Klippert spoke against the passage of the bill.

The Speaker (Representative Orwall presiding) stated the question before the House to be the final passage of Engrossed Second Substitute House Bill No. 1089, as amended by the Senate.

#### ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute House Bill No. 1089, as amended by the Senate, and the bill passed the House by the following vote: Yeas, 69; Nays, 29; Absent, 0; Excused, 0.

Voting yea: Representatives Abbarno, Barkis, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chopp, Cody, Davis, Dolan, Duerr, Entenman, Fey, Fitzgibbon, Frame, Gilday, Goehner, Goodman, Gregerson, Hackney, Hansen, Harris-Talley, Jacobsen, J. Johnson, Kirby, Kloba, Leavitt, Lekanoff, Lovick, Macri, Morgan, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Riccelli, Robertson, Rude, Rule, Ryu, Santos, Sells, Senn, Shewmake, Simmons, Slatter, Springer, Stokesbary, Stonier, Sullivan, Taylor, Thai, Tharinger, Valdez, Walen, Wicks, Wylie, Ybarra, Young and Mme. Speaker.

Voting nay: Representatives Boehnke, Chandler, Chapman, Chase, Corry, Dent, Dufault, Dye, Eslick, Graham, Griffey, Harris, Hoff, Klicker, Klippert, Kraft, Kretz, MacEwen, Maycumber, McCaslin, McEntire, Mosbrucker, Schmick, Steele, Sutherland, Vick, Volz, Walsh and Wilcox.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1089, as amended by the Senate, having received the necessary constitutional majority, was declared passed.

The Speaker assumed the chair.

#### SIGNED BY THE SPEAKER

The Speaker signed the following bills:

SUBSTITUTE HOUSE BILL NO. 1016  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1113  
SUBSTITUTE HOUSE BILL NO. 1250  
ENGROSSED HOUSE BILL NO. 1251  
ENGROSSED HOUSE BILL NO. 1271  
SECOND SUBSTITUTE HOUSE BILL NO. 1325  
HOUSE BILL NO. 1495  
ENGROSSED SUBSTITUTE HOUSE BILL NO. 1529  
HOUSE BILL NO. 1143  
SUBSTITUTE HOUSE BILL NO. 1259  
HOUSE BILL NO. 1296  
SUBSTITUTE HOUSE BILL NO. 1314  
SUBSTITUTE HOUSE BILL NO. 1363  
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SENATE BILL NO. 5019  
SENATE BILL NO. 5048  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
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ENGROSSED SENATE BILL NO. 5135  
ENGROSSED SENATE BILL NO. 5164  
SENATE BILL NO. 5177  
ENGROSSED SENATE BILL NO. 5220  
SUBSTITUTE SENATE BILL NO. 5249  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
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SUBSTITUTE SENATE BILL NO. 5254  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
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SUBSTITUTE SENATE BILL NO. 5271  
SECOND SUBSTITUTE SENATE BILL NO. 5293  
SECOND SUBSTITUTE SENATE BILL NO. 5315  
SECOND SUBSTITUTE SENATE BILL NO. 5396  
SUBSTITUTE SENATE BILL NO. 5401  
ENGROSSED SUBSTITUTE SENATE BILL NO.  
5405

The Speaker called upon Representative Orwall to preside.

There being no objection, the House adjourned until 1:00 p.m., April 13, 2021, the 93rd Legislative Day of the Regular Session.

LAURIE JINKINS, Speaker

BERNARD DEAN, Chief Clerk

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