SEVENTY FOURTH DAY

House Chamber, Olympia, MARCH 23, 2023

The House was called to order at 10:30 a.m. by the Speaker (Representative Bronoske presiding). The Clerk called the roll and a quorum was present.

The flags were escorted to the rostrum by a Sergeant at Arms Color Guard, Claudia Kibbe and Beka Mamuldze. The Speaker (Representative Bronoske presiding) led the Chamber in the Pledge of Allegiance. The prayer was offered by Pastor Stephanie Johnson, Mountain View Church, Tumwater.

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

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

INTRODUCTION & FIRST READING

HB 1848 by Representative Walen

AN ACT Relating to sales to a broadband communications services provider of machinery and equipment used in a communication network; amending RCW 82.08.02565 and 82.12.02565; and creating a new section.

Referred to Committee on Finance.

There being no objection, the bill listed on the day's introduction sheet under the fourth order of business was referred to the committee so designated.

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

REPORTS OF STANDING COMMITTEES

March 21, 2023

HB 1834 Prime Sponsor, Representative Walen: Concerning reconciliation returns for apportionable income. Reported by Committee on Finance

MAJORITY recommendation: Do pass. Signed by Representatives Berg, Chair; Street, Vice Chair; Orcutt, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Barnard; Chopp; Ramel; Santos; Springer; Thai; Walen and Wylie.

Referred to Committee on Appropriations

March 21, 2023

E2SSB 5001 Prime Sponsor, Transportation: Concerning public facility districts created by at least two city or county legislative authorities. Reported by Committee on Local Government

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 35.57.010 and 2010 c 192 s 1 are each amended to read as follows:

(1)(a) The legislative authority of any town or city located in a county with a population of less than one million may create a public facilities district.

(b) The legislative authorities of any contiguous group of towns or cities located in a county or counties each with a population of less than one million may enter an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(c) The legislative authority of any town or city, or any contiguous group of towns or cities, located in a county with a population of less than one million and the legislative authority of a contiguous county, or the legislative authority of the county or counties in which the towns or cities are located, may enter into an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(d) The legislative authority of a city located in a county with a population greater than one million may create a public facilities district, when the city has a total population of less than one hundred fifteen thousand but greater than eighty thousand and commences construction of a regional center prior to July 1, 2008.

(e) At least three contiguous towns or cities with a combined population of at least one hundred sixty thousand, each of which previously created a public facilities district under (a) of this subsection, may create an additional public facilities district. The previously created districts may continue their full corporate existence and activities notwithstanding the creation and existence of the additional district within the same geographic area.

(f) The legislative authority of two or more contiguous towns or cities or the legislative authority of two or more contiguous towns or cities and the legislative authority of the county or counties in which the towns or cities are located, each of which participated in the creation of a public facilities district under (c) of this subsection, may create an additional public facilities district. Any previously created district may continue its full corporate existence and activities notwithstanding the creation and existence of an additional district within the same geographic area. A public facilities district formed under this subsection (1)(f) must be created prior to July 1, 2026. The creation of a public facilities district under this subsection does not require all of the original participating towns, cities, or counties that created a public facilities district under (c) of this subsection to participate in the formation of the

additional public facilities district under this subsection.

(2)(a) A public facilities district is coextensive with the boundaries of the city or town or contiguous group of cities or towns that created the district.

(b) A public facilities district created by an agreement between a town or city, or a contiguous group of towns or cities, and a contiguous county or the county in which they are located, is coextensive with the boundaries of the towns or cities, and the boundaries of the county or counties as to the unincorporated areas of the county or counties. The boundaries do not include incorporated towns or cities that are not parties to the agreement for the creation and joint operation of the district.

(3)(a) A public facilities district created by a single city or town shall be governed by a board of directors consisting of five members selected as follows: (i) Two members appointed by the legislative authority of the city or town; and (ii) three members appointed by legislative authority based on recommendations from local organizations. The members appointed under (a)(i) of this subsection, shall not be members of the legislative authority of the city or town. The members appointed under (a)(ii) of this subsection, must be based on recommendations received from local organizations that may include, but are not limited to, the local chamber of commerce, local economic development council, and local labor council. The members shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(b) A public facilities district created by a contiguous group of cities and towns must be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities and towns; and (ii) four members appointed by the legislative authorities of the cities and towns based on recommendations from local organizations. The members appointed under (b)(i) of this subsection shall not be members of the legislative authorities of the cities and towns. The members appointed under (b)(ii) of this subsection, must be based on recommendations received from local organizations that include, but are not limited to, the local chamber of commerce, local economic development council, local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors must be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(c) A public facilities district created by a town or city, or a contiguous group of towns or cities, and a contiguous county or the county or counties in which they are located, must be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities, towns, and county; and (ii) four members appointed by the legislative authorities of the cities, towns, and county based on recommendations from local organizations. The members appointed under (c)(i) of this subsection shall not be members of the legislative authorities of the cities, towns, or county. The members appointed under (c)(ii) of this subsection must be based on recommendations received from local organizations that include, but are not limited to, the local chamber of commerce, the local economic development council, the local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors must be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(d)(i) A public facilities district created under subsection (1)(e) of this section must provide, in the agreement providing for its creation and operation, that the district must be governed by an odd-numbered board of directors of not more than nine members who are also members of the legislative authorities that created the public facilities district or of the governing boards of the public facilities districts previously created by those legislative authorities, or both.

(ii) A board of directors formed under this subsection must have an equal number of members representing each city or town participating in the public facilities district. If there are unfilled board member positions after each city or town has appointed an equal number of board members, the members so appointed must appoint a number of additional board members necessary to fill any remaining positions. For a board formed under this subsection to submit a proposition to the voters under RCW 82.14.048, a majority of the members representing or appointed by each legislative authority participating in the public facilities district must agree to submit the proposition to the voters((~~; however, the board may not submit a proposition to the voters prior to January 1, 2011~~)).

(4) A public facilities district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(5) A public facilities district constitutes a body corporate and possesses all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically

conferred by statute((~~,~~)) including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

(6) A public facilities district may acquire and transfer real and personal property by lease, sublease, purchase, or sale. No direct or collateral attack on any public facilities district purported to be authorized or created in conformance with this chapter may be commenced more than thirty days after creation by the city and/or county legislative authority.

Sec. 2. RCW 35.57.020 and 2019 c 341 s 1 are each amended to read as follows:

(1)(a) A public facilities district is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more regional centers. For purposes of this chapter, "regional center" means a convention, conference, or special events center, or any combination of facilities, and related parking facilities, serving a regional population constructed, improved, or rehabilitated after July 25, 1999, at a cost of at least ten million dollars, including debt service. "Regional center" also includes an existing convention, conference, or special events center, and related parking facilities, serving a regional population, that is improved or rehabilitated after July 25, 1999, where the costs of improvement or rehabilitation are at least ten million dollars, including debt service. A "special events center" is a facility, available to the public, used for community events, sporting events, trade shows, and artistic, musical, theatrical, or other cultural exhibitions, presentations, or performances. A regional center is conclusively presumed to serve a regional population if state and local government investment in the construction, improvement, or rehabilitation of the regional center is equal to or greater than ten million dollars.

(b) A public facilities district created under RCW 35.57.010(1)(e):

(i) Is authorized, in addition to the authority granted under (a) of this subsection, to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more recreational facilities other than a ski area;

(ii) If exercising its authority under (a) or (b)(i) of this subsection, must obtain voter approval to fund each recreational facility or regional center pursuant to RCW 82.14.048(4)(a); and

(iii) Possesses all of the powers with respect to recreational facilities other than a ski area that all public facilities districts possess with respect to regional centers under subsections (3), (4), and (7) of this section.

(c) A public facilities district created under RCW 35.57.010(1)(a) by a city or town that participated in the creation of an additional public facilities district under RCW 35.57.010(1)(e):

(i) Is authorized, in addition to the authority granted under (a) of this subsection, to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more recreational facilities other than a ski area;

(ii) If exercising its authority under (c)(i) of this subsection, must obtain voter approval to fund each recreational facility pursuant to RCW 82.14.048(4)(a); and

(iii) Possesses all of the powers with respect to recreational facilities other than a ski area that all public facilities districts possess with respect to regional centers.

(d) A public facilities district created under RCW 35.57.010(1)(f) is authorized, in lieu of the authority granted under (a) of this subsection, to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate regional aquatics and sports facilities, including the purchase, acquisition, construction, repairing, remodeling, and operation of community pools within the district. Additionally, a public facilities district created under RCW 35.57.010(1)(f) may provide funding for transportation improvements directly associated with facilitating motor vehicle and pedestrian access to regional aquatics and sports facilities, which includes funding for new construction, reconstruction, expansion, and maintenance of pedestrian trails, city streets, county roads, and state highways. However, the transportation improvements must be aligned with applicable state, regional, or local transportation plans.

(2) A public facilities district may enter into contracts with any city or town for the purpose of exercising any powers of a community renewal agency under chapter 35.81 RCW.

(3) A public facilities district may impose charges and fees for the use of its facilities, and may accept and expend or use gifts, grants, and donations for the purpose of a regional center.

(4) A public facilities district may impose charges, fees, and taxes authorized in RCW 35.57.040, and use revenues derived therefrom for the purpose of paying principal and interest payments on bonds issued by the public facilities district to construct a regional center.

(5) Notwithstanding the establishment of a career, civil, or merit service system, a public facilities district may contract with a public or private entity for the operation or management of its public facilities.

(6) A public facilities district is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any regional center.

(7) A city or town in conjunction with any special agency, authority, or other district established by a county or any other governmental agency is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any regional

center funded in whole or in part by a public facilities district.

(8) Any provision required to be submitted for voter approval under this section((~~,~~)) may not be submitted for voter approval prior to January 1, 2011.

Sec. 3. RCW 82.14.048 and 2012 c 4 s 6 are each amended to read as follows:

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

(a) "Distressed public facilities district" means a public facilities district that has defaulted on bond anticipation notes or bonds in excess of forty million dollars on or before April 1, 2012; and

(b) "Anchor jurisdiction" means a city that has entered into an agreement to form a public facilities district under RCW 35.57.010(1)(c) that constitutes a distressed public facilities district under this chapter and in which the largest asset of such public facilities district is located.

(2)(a) The governing board of a public facilities district under chapter 36.100 or 35.57 RCW may submit an authorizing proposition to the voters of the district, and if the proposition is approved by a majority of persons voting, impose a sales and use tax in accordance with the terms of this chapter.

(b) In addition to the tax authorized pursuant to (a) of this subsection and in addition to any other authority conferred by law, the legislative authority of an anchor jurisdiction may impose a sales and use tax within the geographical boundaries of the anchor jurisdiction in accordance with the terms of this chapter without submitting an authorizing proposition to the voters of the anchor jurisdiction or the distressed public facilities district.

(3) The tax authorized in this section is in addition to any other taxes authorized by law and must be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the public facilities district. The rate of tax may not exceed two-tenths of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax. A public facilities district formed under RCW 35.57.010(1)(e) may not impose the tax authorized under this section at a rate that exceeds two-tenths of one percent minus the rate of the highest tax authorized by this section that is imposed by any other public facilities district within its boundaries. A public facilities district formed under RCW 35.57.010(1)(f) may impose the tax authorized under this section at a rate of not more than two-tenths of one percent regardless of the tax imposed under this section by any other public facilities district within its boundaries. An anchor jurisdiction may impose the tax authorized by subsection (2)(b) of this section at a rate not to exceed two-tenths of one percent, regardless of whether any other public facilities district (including a distressed public facilities district) within its boundaries imposes the tax authorized by this section or the rate of such tax imposed by the public facilities district. If a public facilities district formed under RCW 35.57.010(1)(e) has imposed a tax under this section and issued or incurred obligations pledging that tax, so long as those obligations are outstanding no other public facilities district within its boundaries may thereafter impose a tax under this section at a rate that would reduce the rate of the tax that was pledged to the repayment of those obligations. A public facilities district that imposes a tax under this section is responsible for the payment of any costs incurred for the purpose of administering the provisions of this section, RCW 35.57.010(1)(e), and 35.57.020(1)(b), including any administrative costs associated with the imposition of the tax under this section incurred by either the department of revenue or local government, or both.

(4)(a) Moneys received by a public facilities district from any tax imposed by the public facilities district under the authority of this section must be used for the purpose of providing funds for the costs associated with the financing, refinancing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, and reequipping of its public facilities, and for transportation improvements directly associated with facilitating motor vehicle and pedestrian access to its public facilities to the extent allowed in RCW 35.57.020(1)(d).

(b) Moneys received by an anchor jurisdiction from any tax imposed by the anchor jurisdiction under the authority of this section must be used for the purpose of providing funds for the costs associated with the financing, refinancing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, and reequipping of the public facilities of the distressed public facilities district, and for all litigation, investigation, and related costs and expenses incurred by the anchor jurisdiction toward resolving matters related to the defaults of the distressed public facilities district. To the extent the distressed public facilities district owes money to an anchor jurisdiction, the anchor jurisdiction may apply money from the sales tax imposed under this section to any such obligations. Any sales tax imposed by an anchor jurisdiction under this section must terminate no later than thirty years after it is first imposed."

Correct the title.

Signed by Representatives Duerr, Chair; Alvarado, Vice Chair; Goehner, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Berg; Griffey and Riccelli.

Referred to Committee on Finance

March 20, 2023

E2SSB 5080 Prime Sponsor, Ways & Means: Expanding and improving the social equity in cannabis program. Reported by Committee on Regulated Substances & Gaming

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.330.540 and 2022 c 16 s 36 are each amended to read as follows:

(1) The cannabis social equity technical assistance grant program is established and is to be administered by the department.

(2)(a) The cannabis social equity technical assistance grant program must award grants to:

(i) Cannabis license applicants who are social equity applicants as defined in RCW 69.50.335 submitting social equity plans ((~~under RCW 69.50.335~~))as defined in RCW 69.50.101; and

(ii) Cannabis licensees holding a license issued after ((~~June 30, 2020, and before July 25, 2021~~))April 1, 2023, and before July 1, 2024, who meet the social equity applicant criteria under RCW 69.50.335.

(b) Grant recipients under this subsection (2) must demonstrate completion of their project within 12 months of receiving a grant, unless a grant recipient requests, and the department approves, additional time to complete the project.

(3) The department must award grants primarily based on the strength of the social equity plans submitted by cannabis license applicants and cannabis licensees holding a license issued after ((~~June 30, 2020~~))April 1, 2023, and before ((~~July 25, 2021~~))July 1, 2024, but may also consider additional criteria if deemed necessary or appropriate by the department. Technical assistance activities eligible for funding include, but are not limited to:

(a) Assistance navigating the cannabis licensure process;

(b) Cannabis-business specific education and business plan development;

(c) Regulatory compliance training;

(d) Financial management training and assistance in seeking financing;

(e) Strengthening a social equity plan as defined in RCW 69.50.101; and

(f) Connecting social equity applicants with established industry members and tribal cannabis enterprises and programs for mentoring and other forms of support.

(4) The department may contract to establish a roster of mentors who are available to support and advise social equity applicants and current licensees who meet the social equity applicant criteria under RCW 69.50.335. Contractors under this section must:

(a) Have knowledge and experience demonstrating their ability to effectively advise eligible applicants and licensees in navigating the state's licensing and regulatory framework or on producing and processing cannabis;

(b) Be a business that is at least 51 percent minority or woman-owned; and

(c) Meet department reporting and invoicing requirements.

(5) Funding for the cannabis social equity technical assistance grant program must be provided ((~~through the dedicated cannabis account~~)) under RCW 69.50.540. Additionally, the department may solicit, receive, and expend private contributions to support the grant program.

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

(7) For the purposes of this section, "cannabis" has the meaning provided under RCW 69.50.101.

Sec. 2. RCW 69.50.331 and 2022 c 16 s 58 are each amended to read as follows:

(1) For the purpose of considering any application for a license to produce, process, research, transport, or deliver cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products subject to the regulations established under RCW 69.50.385, or sell cannabis, or for the renewal of a license to produce, process, research, transport, or deliver cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products subject to the regulations established under RCW 69.50.385, or sell cannabis, the board must conduct a comprehensive, fair, and impartial evaluation of the applications timely received.

(a) The board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension, revocation, cancellation, or renewal or denial thereof, of any license, the board may consider any prior criminal arrests or convictions of the applicant, any public safety administrative violation history record with the board, and a criminal history record information check. The board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The board must require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW do not apply to these cases. Subject to the provisions of this section, the board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (7)(c) and (10) of this section. Authority to approve an uncontested or unopposed license may be granted by the board to any staff member the board designates in writing. Conditions for granting this authority must be adopted by rule.

(b) No license of any kind may be issued to:

(i) A person under the age of ((~~twenty-one~~))21 years;

(ii) A person doing business as a sole proprietor who has not lawfully resided in the state for at least six months prior to applying to receive a license;

(iii) A partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under the laws of this state, and unless all of the members thereof are qualified to obtain a license as provided in this section; or

(iv) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of the licensee.

(2)(a) The board may, in its discretion, subject to RCW 43.05.160, 69.50.563, 69.50.562, 69.50.334, and 69.50.342(3) suspend or cancel any license; and all protections of the licensee from criminal or civil sanctions under state law for producing, processing, researching, or selling cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products thereunder must be suspended or terminated, as the case may be.

(b) The board must immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license is automatic upon the board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(c) The board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, and consider mitigating and aggravating circumstances in any case and deviate from any prescribed penalty, under rules the board may adopt.

(d) Witnesses must be allowed fees and mileage each way to and from any inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

(e) In case of disobedience of any person to comply with the order of the board or a subpoena issued by the board, or any of its members, or administrative law judges, or on the refusal of a witness to testify to any matter regarding which he or she may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or administrative law judge, compels obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(3) Upon receipt of notice of the suspension or cancellation of a license, the licensee must forthwith deliver up the license to the board. Where the license has been suspended only, the board must return the license to the licensee at the expiration or termination of the period of suspension. The board must notify all other licensees in the county where the subject licensee has its premises of the suspension or cancellation of the license; and no other licensee or employee of another licensee may allow or cause any cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products to be delivered to or for any person at the premises of the subject licensee.

(4) Every license issued under this chapter is subject to all conditions and restrictions imposed by this chapter or by rules adopted by the board to implement and enforce this chapter. All conditions and restrictions imposed by the board in the issuance of an individual license must be listed on the face of the individual license along with the trade name, address, and expiration date.

(5) Every licensee must post and keep posted its license, or licenses, in a conspicuous place on the premises.

(6) No licensee may employ any person under the age of ((~~twenty-one~~))21 years.

(7)(a) Before the board issues a new or renewed license to an applicant it must give notice of the application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns, or to the tribal government if the application is for a license within Indian country, or to the port authority if the application for a license is located on property owned by a port authority.

(b) The incorporated city or town through the official or employee selected by it, the county legislative authority or the official or employee selected by it, the tribal government, or port authority has the right to file with the board within twenty days after the date of transmittal of the notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewed license is asked. The board may extend the time period for submitting written objections upon request from the authority notified by the board.

(c) The written objections must include a statement of all facts upon which the objections are based, and in case written objections are filed, the city or town or county legislative authority may request, and the board may in its discretion hold, a hearing subject to the applicable provisions of Title 34 RCW. If the board makes an initial decision to deny a license or renewal based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If a hearing is held at the request of the applicant, board

representatives must present and defend the board's initial decision to deny a license or renewal.

(d) Upon the granting of a license under this title the board must send written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(8)(a) Except as provided in (b) through (e) of this subsection, the board may not issue a license for any premises within ((~~one thousand~~))1,000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged ((~~twenty-one~~))21 years or older.

(b) A city, county, or town may permit the licensing of premises within ((~~one thousand~~))1,000 feet but not less than ((~~one hundred~~))100 feet of the facilities described in (a) of this subsection, except elementary schools, secondary schools, and playgrounds, by enacting an ordinance authorizing such distance reduction, provided that such distance reduction will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement interests, public safety, or public health.

(c) A city, county, or town may permit the licensing of research premises allowed under RCW 69.50.372 within ((~~one thousand~~))1,000 feet but not less than ((~~one hundred~~))100 feet of the facilities described in (a) of this subsection by enacting an ordinance authorizing such distance reduction, provided that the ordinance will not negatively impact the jurisdiction's civil regulatory enforcement, criminal law enforcement, public safety, or public health.

(d) The board may license premises located in compliance with the distance requirements set in an ordinance adopted under (b) or (c) of this subsection. Before issuing or renewing a research license for premises within ((~~one thousand~~))1,000 feet but not less than ((~~one hundred~~))100 feet of an elementary school, secondary school, or playground in compliance with an ordinance passed pursuant to (c) of this subsection, the board must ensure that the facility:

(i) Meets a security standard exceeding that which applies to cannabis producer, processor, or retailer licensees;

(ii) Is inaccessible to the public and no part of the operation of the facility is in view of the general public; and

(iii) Bears no advertising or signage indicating that it is a cannabis research facility.

(e) The board must issue a certificate of compliance if the premises met the requirements under (a), (b), (c), or (d) of this subsection on the date of the application. The certificate allows the licensee to operate the business at the proposed location notwithstanding a later occurring, otherwise disqualifying factor.

(f) The board may not issue a license for any premises within Indian country, as defined in 18 U.S.C. Sec. 1151, including any fee patent lands within the exterior boundaries of a reservation, without the consent of the federally recognized tribe associated with the reservation or Indian country.

(9) A city, town, or county may adopt an ordinance prohibiting a cannabis producer or cannabis processor from operating or locating a business within areas zoned primarily for residential use or rural use with a minimum lot size of five acres or smaller.

(10) In determining whether to grant or deny a license or renewal of any license, the board must give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

(11) The board may not issue a cannabis retail license for any premises not currently licensed if:

(a) The board receives a written objection from the legislative authority of an incorporated city or town, or county legislative authority, relating to the physical location of the proposed premises;

(b) The objection to the location from the incorporated city or town, or county legislative authority, is received by the board within 20 days of the board notifying the incorporated city or town, or county legislative authority, of the proposed cannabis retail location; and

(c) The objection to the issuance of a cannabis retail license at the specified location is based on a preexisting local ordinance limiting outlet density in a specific geographic area. For purposes of this subsection (11), a preexisting local ordinance is an ordinance enacted and in effect before the date the applicant submits an application for a cannabis retail license to the board identifying the premises proposed to be licensed. No objection related to the physical location of a proposed premises may be made by a local government under this subsection (11) based on a local ordinance enacted after the date the applicant submits an application for a

cannabis retail license to the board identifying the premises proposed to be licensed.

(12) After January 1, 2024, all cannabis licensees are encouraged but are not required to submit a social equity plan to the board. Upon confirmation by the board that a cannabis licensee who is not a social equity applicant, and who does not hold a social equity license issued under RCW 69.50.335, has submitted a social equity plan, the board must within 30 days reimburse such a licensee an amount equal to the cost of the licensee's annual cannabis license renewal fee. The license renewal fee reimbursement authorized under this subsection is subject to the following limitations:

(a) The board may provide reimbursement one time only to any licensed entity; and

(b) Any licensed entity holding more than one cannabis license is eligible for reimbursement of the license renewal fee on only one license.

Sec. 3. RCW 69.50.335 and 2022 c 16 s 60 are each amended to read as follows:

(1)(a) Beginning December 1, 2020, and until July 1, ((~~2029~~))2032, cannabis retailer licenses, cannabis processor licenses, and cannabis producer licenses that have been subject to forfeiture, revocation, or cancellation by the board, or cannabis retailer licenses that were not previously issued by the board but could have been issued without exceeding the limit on the statewide number of cannabis retailer licenses established before January 1, 2020, by the board, may be issued or reissued to an applicant who meets the cannabis retailer license, cannabis processor license, or cannabis producer license requirements of this chapter.

(b) In accordance with (a) of this subsection, the board may issue or reissue:

(i) Up to 100 cannabis processor licenses immediately; and

(ii) Beginning January 1, 2025, up to 10 cannabis producer licenses, which must be issued in conjunction with a cannabis processor license.

(c) In addition to the cannabis retailer licenses and cannabis producer licenses that may be issued under (a) and (b) of this subsection, beginning January 1, 2023, and continuing every three years until July 1, 2032, the board may, with the approval of the legislature through the passage of a bill, increase the number of cannabis retailer licenses and cannabis producer licenses for the social equity program based on:

(i) The most recent census data available as of January 1, 2023; and

(ii) The annual population estimates published by the office of financial management.

(d) In addition to the cannabis retailer licenses that may be issued under (a) of this subsection, beginning January 1, 2024, and until July 1, 2032, the board may issue up to 52 cannabis retailer licenses for the social equity program.

(e)(i) At the time of licensure, all licenses issued under the social equity program under this section may be located in any city, town, or county in the state that allows cannabis retail, cannabis production, or cannabis processing business activities, as applicable, at the proposed location, regardless of:

(A) Whether a cannabis retailer license, cannabis producer license, or cannabis processor license was originally allocated to or issued in another city, town, or county; and

(B) The maximum number of retail cannabis licenses established by the board for each county under RCW 69.50.345.

(ii) The board must adopt rules establishing a threshold of the number of licenses created by this section that can be located in each county.

(f) After a social equity license has been issued under this section for a specific location, the location of the licensed business may not be moved to a city, town, or county different from the city, town, or county for which it was initially licensed.

(2)(a) In order to be considered for a ((~~retail~~))cannabis retailer license, cannabis processor license, or cannabis producer license under subsection (1) of this section, an applicant must be a social equity applicant and submit ((~~a social equity plan along with other cannabis retailer license application requirements~~))required cannabis license materials to the board. If the application proposes ownership by more than one person, then at least ((~~fifty-one~~))51 percent of the proposed ownership structure must reflect the qualifications of a social equity applicant.

(b) Persons holding an existing cannabis retailer license or title certificate for a cannabis retailer business in a local jurisdiction subject to a ban or moratorium on cannabis retail businesses may apply for a license under this section.

(3)(a) In determining the priority for issuance of a license among applicants, the board ((~~may prioritize applicants based on the extent to which the application addresses the components of the social equity plan~~))must select a third-party contractor to identify and score social equity applicants, using a scoring rubric developed by the board. The board must rely on the score provided by the third-party contractor in issuing licenses.

(b) The board may deny any application submitted under this subsection if ((~~the~~)):

(i) The board determines that((~~:~~

~~(i) The application does not meet social equity goals or does not meet social equity plan requirements; or~~

~~(ii) The application does not otherwise meet the licensing requirements of this chapter~~)), upon the advice of the third-party contractor, the application does not meet the social equity licensing requirements of this chapter; or

(ii) The board determines the application does not otherwise meet licensing requirements.

(4) The board ((~~may~~))must adopt rules to implement this section. ((~~Rules may include strategies for receiving~~))Prior to adopting any rule implementing this section, the

board must consider advice on the social equity program from individuals the program is intended to benefit. Rules may also require that licenses awarded under this section only be transferred to or ((~~sold only to~~))assumed by individuals or groups of individuals who comply with the requirements for initial licensure as a social equity applicant ((~~with a social equity plan under this section~~))for a period of at least five years from the date of initial licensure.

(5) The annual fee for issuance, reissuance, or renewal for any license under this section must be ((~~equal to the fee established in RCW 69.50.325~~))waived through July 1, 2032.

(6) ((~~For the purposes of this section:~~))The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Disproportionately impacted area" means a census tract or comparable geographic area ((~~that satisfies the following criteria, which may be further defined in rule by the board after consultation with the commission on African American affairs and other agencies, commissions, and community members as determined by the board:~~

~~(i) The area has a high poverty rate;~~

~~(ii) The area has a high rate of participation in income-based federal or state programs~~))within Washington state where community members were more likely to be impacted by the war on drugs. These areas must be determined in rule by the board, in consultation with the office of equity, using a standardized statistical equation to identify areas with demographic indicators consistent with populations most impacted by the war on drugs. These areas must be assessed to account for demographic changes in the composition of the population over time. Disproportionately impacted areas must include census tracts or comparable geographic areas in the top 15th percentile in at least two of the following demographic indicators of populations most impacted by the war on drugs:

(i) The area has a high rate of people living under the federal poverty level;

(ii) The area has a high rate of people who did not graduate from high school;

(iii) The area has a high rate of unemployment; ((~~and~~))or

(iv) The area has a high rate of ((~~arrest, conviction, or incarceration related to the sale, possession, use, cultivation, manufacture, or transport of cannabis~~))people receiving public assistance.

(b) "Social equity applicant" means((~~:~~

~~(i) An applicant who has at least fifty-one percent ownership and control by one or more individuals who have resided in a disproportionately impacted area for a period of time defined in rule by the board after consultation with the commission on African American affairs and other commissions, agencies, and community members as determined by the board;~~

~~(ii) An applicant who has at least fifty-one percent ownership and control by at least one individual who has been convicted of a cannabis offense, a drug offense, or is a family member of such an individual; or~~

~~(iii) An applicant who meets criteria defined in rule by the board after consultation with the commission on African American affairs and other commissions, agencies, and community members as determined by the board~~))an applicant who has at least 51 percent ownership and control by one or more individuals who meet at least two of the following qualifications:

(i) Lived in a disproportionately impacted area in Washington state for a minimum of five years between 1980 and 2010;

(ii) Has been arrested or convicted of a cannabis offense or has a family member who has been arrested or convicted of a cannabis offense;

(iii) Had a household income in the year prior to submitting an application under this section that was less than the median household income within the state of Washington as calculated by the United States census bureau; or

(iv) Is both a socially and economically disadvantaged individual as defined by the office of minority and women's business enterprises under chapter 39.19 RCW.

(c) "Social equity goals" means:

(i) Increasing the number of cannabis retailer, producer, and processor licenses held by social equity applicants from disproportionately impacted areas; and

(ii) Reducing accumulated harm suffered by individuals, families, and local areas subject to severe impacts from the historical application and enforcement of cannabis prohibition laws.

((~~(d) "Social equity plan" means a plan that addresses at least some of the elements outlined in this subsection (6)(d), along with any additional plan components or requirements approved by the board following consultation with the task force created in RCW 69.50.336. The plan may include:~~

~~(i) A statement that the social equity applicant qualifies as a social equity applicant and intends to own at least fifty-one percent of the proposed cannabis retail business or applicants representing at least fifty-one percent of the ownership of the proposed business qualify as social equity applicants;~~

~~(ii) A description of how issuing a cannabis retail license to the social equity applicant will meet social equity goals;~~

~~(iii) The social equity applicant's personal or family history with the criminal justice system including any offenses involving cannabis;~~

~~(iv) The composition of the workforce the social equity applicant intends to hire;~~

~~(v) Neighborhood characteristics of the location where the social equity applicant intends to operate, focusing especially on disproportionately impacted areas; and~~

~~(vi) Business plans involving partnerships or assistance to organizations or residents with connection to populations with a history of high rates of enforcement of cannabis prohibition.~~))

(7) Except for the process detailed in subsection (1) of this section, the process for creating new cannabis retail licenses under this chapter remains unaltered.

Sec. 4. RCW 69.50.345 and 2022 c 16 s 64 are each amended to read as follows:

The board, subject to the provisions of this chapter, must adopt rules that establish the procedures and criteria necessary to implement the following:

(1) Licensing of cannabis producers, cannabis processors, and cannabis retailers, including prescribing forms and establishing application, reinstatement, and renewal fees.

(a) Application forms for cannabis producers must request the applicant to state whether the applicant intends to produce cannabis for sale by cannabis retailers holding medical cannabis endorsements and the amount of or percentage of canopy the applicant intends to commit to growing plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for cannabis concentrates, useable cannabis, or cannabis-infused products sold to qualifying patients.

(b) The board must reconsider and increase limits on the amount of square feet permitted to be in production on July 24, 2015, and increase the percentage of production space for those cannabis producers who intend to grow plants for cannabis retailers holding medical cannabis endorsements if the cannabis producer designates the increased production space to plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for cannabis concentrates, useable cannabis, or cannabis-infused products to be sold to qualifying patients. If current cannabis producers do not use all the increased production space, the board may reopen the license period for new cannabis producer license applicants but only to those cannabis producers who agree to grow plants for cannabis retailers holding medical cannabis endorsements. Priority in licensing must be given to cannabis producer license applicants who have an application pending on July 24, 2015, but who are not yet licensed and then to new cannabis producer license applicants. After January 1, 2017, any reconsideration of the limits on the amount of square feet permitted to be in production to meet the medical needs of qualifying patients must consider information contained in the medical cannabis authorization database established in RCW 69.51A.230;

(2) ((~~Determining~~))(a) Except as provided in RCW 69.50.335, determining, in consultation with the office of financial management, the maximum number of retail outlets that may be licensed in each county, taking into consideration:

((~~(a)~~))(i) Population distribution;

((~~(b)~~))(ii) Security and safety issues;

((~~(c)~~))(iii) The provision of adequate access to licensed sources of cannabis concentrates, useable cannabis, and cannabis-infused products to discourage purchases from the illegal market; and

((~~(d)~~))(iv) The number of retail outlets holding medical cannabis endorsements necessary to meet the medical needs of qualifying patients. The board must reconsider and increase the maximum number of retail outlets it established before July 24, 2015, and allow for a new license application period and a greater number of retail outlets to be permitted in order to accommodate the medical needs of qualifying patients and designated providers. After January 1, 2017, any reconsideration of the maximum number of retail outlets needed to meet the medical needs of qualifying patients must consider information contained in the medical cannabis authorization database established in RCW 69.51A.230.

(b)(i) In making the determination under (a) of this subsection, the board must consider written input from an incorporated city or town, or county legislative authority when evaluating concerns related to outlet density.

(ii) An incorporated city or town, or county legislative authority, may enact an ordinance prescribing outlet density limitations. An ordinance may not affect licenses issued before the effective date of the ordinance prescribing outlet density limitations.

(iii) The board may adopt rules to identify how local jurisdiction input will be evaluated;

(3) Determining the maximum quantity of cannabis a cannabis producer may have on the premises of a licensed location at any time without violating Washington state law;

(4) Determining the maximum quantities of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products a cannabis processor may have on the premises of a licensed location at any time without violating Washington state law;

(5) Determining the maximum quantities of cannabis concentrates, useable cannabis, and cannabis-infused products a cannabis retailer may have on the premises of a retail outlet at any time without violating Washington state law;

(6) In making the determinations required by this section, the board shall take into consideration:

(a) Security and safety issues;

(b) The provision of adequate access to licensed sources of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products to discourage purchases from the illegal market; and

(c) Economies of scale, and their impact on licensees' ability to both comply with regulatory requirements and undercut illegal market prices;

(7) Determining the nature, form, and capacity of all containers to be used by licensees to contain cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products, and their labeling requirements;

(8) In consultation with the department of agriculture and the department, establishing classes of cannabis, cannabis concentrates, useable cannabis, and cannabis infused products according to grade, condition, cannabinoid profile, THC concentration, CBD concentration, or other qualitative measurements deemed appropriate by the board;

(9) Establishing reasonable time, place, and manner restrictions and requirements regarding advertising of cannabis, cannabis

concentrates, useable cannabis, and cannabis-infused products that are not inconsistent with the provisions of this chapter, taking into consideration:

(a) Federal laws relating to cannabis that are applicable within Washington state;

(b) Minimizing exposure of people under twenty-one years of age to the advertising;

(c) The inclusion of medically and scientifically accurate information about the health and safety risks posed by cannabis use in the advertising; and

(d) Ensuring that retail outlets with medical cannabis endorsements may advertise themselves as medical retail outlets;

(10) Specifying and regulating the time and periods when, and the manner, methods, and means by which, licensees shall transport and deliver cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products within the state;

(11) In consultation with the department and the department of agriculture, establishing accreditation requirements for testing laboratories used by licensees to demonstrate compliance with standards adopted by the board, and prescribing methods of producing, processing, and packaging cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, packaged, or sold by licensees;

(12) Specifying procedures for identifying, seizing, confiscating, destroying, and donating to law enforcement for training purposes all cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, packaged, labeled, or offered for sale in this state that do not conform in all respects to the standards prescribed by this chapter or the rules of the board.

Sec. 5. RCW 69.50.345 and 2022 c 16 s 65 are each amended to read as follows:

The board, subject to the provisions of this chapter, must adopt rules that establish the procedures and criteria necessary to implement the following:

(1) Licensing of cannabis producers, cannabis processors, and cannabis retailers, including prescribing forms and establishing application, reinstatement, and renewal fees.

(a) Application forms for cannabis producers must request the applicant to state whether the applicant intends to produce cannabis for sale by cannabis retailers holding medical cannabis endorsements and the amount of or percentage of canopy the applicant intends to commit to growing plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for cannabis concentrates, useable cannabis, or cannabis-infused products sold to qualifying patients.

(b) The board must reconsider and increase limits on the amount of square feet permitted to be in production on July 24, 2015, and increase the percentage of production space for those cannabis producers who intend to grow plants for cannabis retailers holding medical cannabis endorsements if the cannabis producer designates the increased production space to plants determined by the department under RCW 69.50.375 to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for cannabis concentrates, useable cannabis, or cannabis-infused products to be sold to qualifying patients. If current cannabis producers do not use all the increased production space, the board may reopen the license period for new cannabis producer license applicants but only to those cannabis producers who agree to grow plants for cannabis retailers holding medical cannabis endorsements. Priority in licensing must be given to cannabis producer license applicants who have an application pending on July 24, 2015, but who are not yet licensed and then to new cannabis producer license applicants. After January 1, 2017, any reconsideration of the limits on the amount of square feet permitted to be in production to meet the medical needs of qualifying patients must consider information contained in the medical cannabis authorization database established in RCW 69.51A.230;

(2) ((~~Determining~~)) (a) Except as provided in RCW 69.50.335, determining, in consultation with the office of financial management, the maximum number of retail outlets that may be licensed in each county, taking into consideration:

((~~(a)~~)) (i) Population distribution;

((~~(b)~~)) (ii) Security and safety issues;

((~~(c)~~)) (iii) The provision of adequate access to licensed sources of cannabis concentrates, useable cannabis, and cannabis-infused products to discourage purchases from the illegal market; and

((~~(d)~~)) (iv) The number of retail outlets holding medical cannabis endorsements necessary to meet the medical needs of qualifying patients. The board must reconsider and increase the maximum number of retail outlets it established before July 24, 2015, and allow for a new license application period and a greater number of retail outlets to be permitted in order to accommodate the medical needs of qualifying patients and designated providers. After January 1, 2017, any reconsideration of the maximum number of retail outlets needed to meet the medical needs of qualifying patients must consider information contained in the medical cannabis authorization database established in RCW 69.51A.230.

(b)(i) In making the determination under (a) of this subsection, the board must consider written input from an incorporated city or town, or county legislative authority when evaluating concerns related to outlet density.

(ii) An incorporated city or town, or county legislative authority, may enact an ordinance prescribing outlet density limitations. An ordinance may not affect licenses issued before the effective date of the ordinance prescribing outlet density limitations.

(iii) The board may adopt rules to identify how local jurisdiction input will be evaluated;

(3) Determining the maximum quantity of cannabis a cannabis producer may have on the premises of a licensed location at any time without violating Washington state law;

(4) Determining the maximum quantities of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products a cannabis processor may have on the premises of a licensed location at any time without violating Washington state law;

(5) Determining the maximum quantities of cannabis concentrates, useable cannabis, and cannabis-infused products a cannabis retailer may have on the premises of a retail outlet at any time without violating Washington state law;

(6) In making the determinations required by this section, the board shall take into consideration:

(a) Security and safety issues;

(b) The provision of adequate access to licensed sources of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products to discourage purchases from the illegal market; and

(c) Economies of scale, and their impact on licensees' ability to both comply with regulatory requirements and undercut illegal market prices;

(7) Determining the nature, form, and capacity of all containers to be used by licensees to contain cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products, and their labeling requirements;

(8) In consultation with the department of agriculture and the department, establishing classes of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products according to grade, condition, cannabinoid profile, THC concentration, CBD concentration, or other qualitative measurements deemed appropriate by the board;

(9) Establishing reasonable time, place, and manner restrictions and requirements regarding advertising of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products that are not inconsistent with the provisions of this chapter, taking into consideration:

(a) Federal laws relating to cannabis that are applicable within Washington state;

(b) Minimizing exposure of people under ((~~twenty-one~~))21 years of age to the advertising;

(c) The inclusion of medically and scientifically accurate information about the health and safety risks posed by cannabis use in the advertising; and

(d) Ensuring that retail outlets with medical cannabis endorsements may advertise themselves as medical retail outlets;

(10) Specifying and regulating the time and periods when, and the manner, methods, and means by which, licensees shall transport and deliver cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products within the state;

(11) In consultation with the department and the department of agriculture, prescribing methods of producing, processing, and packaging cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, packaged, or sold by licensees;

(12) Specifying procedures for identifying, seizing, confiscating, destroying, and donating to law enforcement for training purposes all cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products produced, processed, packaged, labeled, or offered for sale in this state that do not conform in all respects to the standards prescribed by this chapter or the rules of the board.

Sec. 6. RCW 69.50.101 and 2022 c 16 s 51 are each reenacted and amended to read as follows:

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

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "Board" means the Washington state liquor and cannabis board.

(d) "Cannabis" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:

(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination; or

(2) Hemp or industrial hemp as defined in RCW 15.140.020, seeds used for licensed hemp production under chapter 15.140 RCW.

(e) "Cannabis concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ten percent.

(f) "Cannabis processor" means a person licensed by the board to process cannabis into cannabis concentrates, useable cannabis, and cannabis-infused products, package and label cannabis concentrates, useable cannabis, and cannabis-infused

products for sale in retail outlets, and sell cannabis concentrates, useable cannabis, and cannabis-infused products at wholesale to cannabis retailers.

(g) "Cannabis producer" means a person licensed by the board to produce and sell cannabis at wholesale to cannabis processors and other cannabis producers.

(h) "Cannabis products" means useable cannabis, cannabis concentrates, and cannabis-infused products as defined in this section.

(i) "Cannabis researcher" means a person licensed by the board to produce, process, and possess cannabis for the purposes of conducting research on cannabis and cannabis-derived drug products.

(j) "Cannabis retailer" means a person licensed by the board to sell cannabis concentrates, useable cannabis, and cannabis-infused products in a retail outlet.

(k) "Cannabis-infused products" means products that contain cannabis or cannabis extracts, are intended for human use, are derived from cannabis as defined in subsection (d) of this section, and have a THC concentration no greater than ten percent. The term "cannabis-infused products" does not include either useable cannabis or cannabis concentrates.

(l) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(m) "CBD product" means any product containing or consisting of cannabidiol.

(n) "Commission" means the pharmacy quality assurance commission.

(o) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include hemp or industrial hemp as defined in RCW 15.140.020.

(p)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355, or chapter 69.77 RCW to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(q) "Deliver" or "delivery" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

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

(s) "Designated provider" has the meaning provided in RCW 69.51A.010.

(t) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(u) "Dispenser" means a practitioner who dispenses.

(v) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(w) "Distributor" means a person who distributes.

(x) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/ national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(y) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(z) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

(aa) "Immature plant or clone" means a plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

(bb) "Immediate precursor" means a substance:

(1) that the commission has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;

(2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(cc) "Isomer" means an optical isomer, but in subsection (gg)(5) of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(dd) "Lot" means a definite quantity of cannabis, cannabis concentrates, useable cannabis, or cannabis-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(ee) "Lot number" must identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of cannabis, cannabis concentrates, useable cannabis, or cannabis-infused product.

(ff) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(gg) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in (1) through (7) of this subsection.

(hh) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(ii) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

(jj) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(kk) "Plant" has the meaning provided in RCW 69.51A.010.

(ll) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(mm) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(nn) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

(oo) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(pp) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

(qq) "Recognition card" has the meaning provided in RCW 69.51A.010.

(rr) "Retail outlet" means a location licensed by the board for the retail sale of cannabis concentrates, useable cannabis, and cannabis-infused products.

(ss) "Secretary" means the secretary of health or the secretary's designee.

(tt) "Social equity plan" means a plan that addresses at least some of the elements outlined in this subsection (tt), along with any additional plan components or requirements approved by the board following consultation with the task force created in RCW 69.50.336. The plan may include:

(1) A statement that indicates how the cannabis licensee will work to promote social equity goals in their community;

(2) A description of how the cannabis licensee will meet social equity goals as defined in RCW 69.50.335;

(3) The composition of the workforce the licensee has employed or intends to hire; and

(4) Business plans involving partnerships or assistance to organizations or residents with connections to populations with a history of high rates of enforcement of cannabis prohibition.

(uu) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

((~~(uu)~~)) (vv) "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of cannabis product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

((~~(vv)~~)) (ww) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

((~~(ww)~~)) (xx) "Useable cannabis" means dried cannabis flowers. The term "useable cannabis" does not include either cannabis-infused products or cannabis concentrates.

((~~(xx)~~)) (yy) "Youth access" means the level of interest persons under the age of twenty-one may have in a vapor product, as well as the degree to which the product is available or appealing to such persons, and the likelihood of initiation, use, or addiction by adolescents and young adults.

NEW SECTION. **Sec. 7.** (1) The joint legislative audit and review committee must review prior canopy studies completed by the liquor and cannabis board and examine whether current levels of cannabis production align with market demand and capacity, including the impact of any additional cannabis producer licenses granted under this act.

(2) The joint legislative audit and review committee must report results of their review to the governor and appropriate committees of the legislature by June 30, 2025.

NEW SECTION. **Sec. 8.** Section 4 of this act expires July 1, 2024.

NEW SECTION. **Sec. 9.** Section 5 of this act takes effect July 1, 2024."

Correct the title.

Signed by Representatives Kloba, Co-Chair; Wylie, Co-Chair; Stearns, Vice Chair; Cheney; Morgan; Orwall; Reeves and Waters.

MINORITY recommendation: Without recommendation. Signed by Representatives Chambers, Ranking Minority Member; Robertson, Assistant Ranking Minority Member; and Walsh.

Referred to Committee on Appropriations

March 21, 2023

ESSB 5082 Prime Sponsor, State Government & Elections: Encouraging electoral participation and making ballots more meaningful by abolishing advisory votes. Reported by Committee on State Government & Tribal Relations

MAJORITY recommendation: Do pass. Signed by Representatives Ramos, Chair; Stearns, Vice Chair; Gregerson and Mena.

MINORITY recommendation: Do not pass. Signed by Representatives Abbarno, Ranking Minority Member; Christian, Assistant Ranking Minority Member.

MINORITY recommendation: Without recommendation. Signed by Representative Low.

Referred to Committee on Rules for second reading

March 21, 2023

ESSB 5123 Prime Sponsor, Labor & Commerce: Concerning the employment of individuals who lawfully consume cannabis. Reported by Committee on Labor & Workplace Standards

MAJORITY recommendation: Do pass. Signed by Representatives Berry, Chair; Fosse, Vice Chair; Bronoske; Doglio; Ormsby and Ortiz-Self.

MINORITY recommendation: Do not pass. Signed by Representatives Robertson, Ranking Minority Member; Schmidt, Assistant Ranking Minority Member; and Connors.

Referred to Committee on Rules for second reading

March 21, 2023

E2SSB 5144 Prime Sponsor, Ways & Means: Providing for responsible environmental management of batteries. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

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

(1) It is in the public interest of the citizens of Washington to encourage the recovery and reuse of materials, such as metals, that replace the output of mining and other extractive industries.

(2) Without a dedicated battery stewardship program, battery user confusion regarding proper disposal options will continue to persist.

(3) Ensuring the proper handling, recycling, and end-of-life management of used batteries prevents the release of toxic materials into the environment and removes materials from the waste stream that, if mishandled, may present safety concerns to workers, such as by igniting fires at solid waste handling facilities. For this reason, batteries should not be placed into commingled recycling containers or disposed of via traditional garbage collection containers.

(4) Jurisdictions around the world have successfully implemented battery stewardship laws that have helped address the challenges posed by the end-of-life management of batteries. Because it is difficult for customers to differentiate between types and chemistries of batteries, it is the best practice for battery stewardship programs to collect all battery types and chemistries. Furthermore, it is appropriate for larger batteries used in emerging market sectors such as electric vehicles, solar power arrays, and data centers, to be managed to ensure environmentally positive outcomes similar to those achieved by a battery stewardship program, both because of the potential economic value of large batteries used for these purposes and the anticipated profusion of these larger batteries as these market sectors mature.

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

(1)(a) "Battery-containing product" means a product that contains or is packaged with rechargeable or primary batteries that are covered batteries.

(b) A "battery-containing product" does not include a covered electronic product under an approved plan implemented under chapter 70A.500 RCW.

(2) "Battery management hierarchy" means a management system of covered batteries prioritized in descending order as follows:

(a) Waste prevention and reduction;

(b) Reuse, when reuse is appropriate;

(c) Recycling, as defined in this chapter; and

(d) Other means of end-of-life management, which may only be utilized after demonstrating to the department that it is not feasible to manage the batteries under the higher priority options in (a) through (c) of this subsection.

(3) "Battery stewardship organization" means a producer that directly implements a battery stewardship plan required under this chapter or a nonprofit organization designated by a producer or group of producers to implement a battery stewardship plan required under this chapter.

(4) "Collection rate" means a percentage, by weight, that a battery stewardship organization collects that is calculated by dividing the total weight of primary and rechargeable batteries collected during the previous calendar year by the average annual weight of primary and rechargeable batteries that were estimated to have been sold in the state by all producers participating in an approved battery stewardship plan during the previous three calendar years.

(5)(a) "Covered battery" means a portable battery or, beginning January 1, 2029, a medium format battery.

(b) "Covered battery" does not include:

(i) A battery contained within a medical device, as specified in Title 21 U.S.C. Sec. 321(h) as it existed as of the effective date of this section, that is not designed and marketed for sale or resale principally to consumers for personal use;

(ii) A battery that contains an electrolyte as a free liquid;

(iii) A lead acid battery weighing greater than 11 pounds;

(iv) A battery subject to the provisions of RCW 70A.205.505 through 70A.205.530; and

(v) A battery in a battery-containing product that is not intended or designed to be easily removable from the battery-containing product.

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

(7) "Easily removable" means designed by the manufacturer to be removable by the user of the product with no more than commonly used household tools.

(8) "Environmentally sound management practices" means practices that: (a) Comply with all applicable laws and rules to protect workers, public health, and the environment; (b) provide for adequate recordkeeping, tracking, and documenting of the fate of materials within the state and beyond; and (c) include comprehensive liability coverage for the battery

stewardship organization, including environmental liability coverage that is commercially practicable.

(9) "Final disposition" means the final processing of a collected battery to produce usable end products, at the point where the battery has been reduced to its constituent parts, reusable portions made available for use, and any residues handled as wastes in accordance with applicable law.

(10) "Large format battery" means:

(a) A rechargeable battery that weighs more than 25 pounds or has a rating of more than 2,000 watt-hours; or

(b) A primary battery that weighs more than 25 pounds.

(11) "Medium format battery" means the following primary or rechargeable covered batteries:

(a) For rechargeable batteries, a battery weighing more than 11 pounds or has a rating of more than 300 watt-hours, or both, and no more than 25 pounds and has a rating of no more than 2,000 watt-hours;

(b) For primary batteries, a battery weighing more than 4.4 pounds but not more than 25 pounds.

(12) "Portable battery" means the following primary or rechargeable covered batteries:

(a) For rechargeable batteries, a battery weighing no more than 11 pounds and has a rating of no more than 300 watt-hours;

(b) For primary batteries, a battery weighing no more than 4.4 pounds.

(13) "Primary battery" means a battery that is not capable of being recharged.

(14)(a) "Producer" means the following person responsible for compliance with requirements under this chapter for a covered battery or battery-containing product sold, offered for sale, or distributed in or into this state:

(i) For covered batteries:

(A) If the battery is sold under the brand of the battery manufacturer, the producer is the person that manufactures the battery;

(B) If the battery is sold under a retail brand or under a brand owned by a person other than the manufacturer, the producer is the brand owner;

(C) If there is no person to which (a)(i)(A) or (B) of this subsection applies, the producer is the person that is the licensee of a brand or trademark under which the battery is used in a commercial enterprise, sold, offered for sale, or distributed in or into this state, whether or not the trademark is registered in this state;

(D) If there is no person described in (a)(i)(A) through (C) of this subsection within the United States, the producer is the person who is the importer of record for the battery into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the battery in this state;

(E) If there is no person described in (a)(i)(A) through (D) of this subsection with a commercial presence within the state, the producer is the person who first sells, offers for sale, or distributes the battery in or into this state.

(ii) For covered battery-containing products:

(A) If the battery-containing product is sold under the brand of the product manufacturer, the producer is the person that manufactures the product;

(B) If the battery-containing product is sold under a retail brand or under a brand owned by a person other than the manufacturer, the producer is the brand owner;

(C) If there is no person to which (a)(ii)(A) or (B) of this subsection applies, the producer is the person that is the licensee of a brand or trademark under which the product is used in a commercial enterprise, sold, offered for sale, or distributed in or into this state, whether or not the trademark is registered in this state;

(D) If there is no person described in (a)(ii)(A) through (C) of this subsection within the United States, the producer is the person who is the importer of record for the product into the United States for use in a commercial enterprise that sells, offers for sale, or distributes the product in this state;

(E) If there is no person described in (a)(ii)(A) through (D) of this subsection with a commercial presence within the state, the producer is the person who first sells, offers for sale, or distributes the product in or into this state;

(F) A producer does not include any person who only manufactures, sells, offers for sale, distributes, or imports into the state a battery-containing product if the only batteries used by the battery-containing product are supplied by a producer that has joined a registered battery stewardship organization as the producer for that covered battery under this chapter. For this provision to apply, such a producer of covered batteries that are included in a battery-containing product must provide written certification of that membership to both the producer of the covered battery-containing product and the battery stewardship organization of which the battery producer is a member.

(b) A person is the "producer" of a covered battery or covered battery-containing product sold, offered for sale, or distributed in or into this state, as defined in (a) of this subsection, except where another party has contractually accepted responsibility as a responsible producer and has joined a registered battery stewardship organization as the producer for that covered battery or covered battery-containing product under this chapter.

(15) "Program" means a program implemented by a battery stewardship organization consistent with an approved battery stewardship plan.

(16) "Rechargeable battery" means a battery that contains one or more voltaic or galvanic cells, electrically connected to produce electric energy, designed to be recharged.

(17) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than:

(a) Combustion;

(b) Incineration;

(c) Energy generation;

(d) Fuel production; or

(e) Beneficial reuse in the construction and operation of a solid waste landfill, including use of alternative daily cover.

(18) "Recycling efficiency rate" means the ratio of the weight of covered battery components and materials recycled by a program operator from covered batteries to the weight of those covered batteries collected by the program operator.

(19) "Retailer" means a person who sells covered batteries or battery-containing products in or into this state or offers or otherwise makes available covered batteries or battery-containing products to a customer, including other businesses, for use by the customer in this state.

(20) "Urban area" means an area delineated by the United States census bureau, based on a minimum threshold of 2,000 housing units or 5,000 people, as of January 1, 2023.

NEW SECTION. **Sec. 3.** REQUIREMENT THAT PRODUCERS IMPLEMENT A STEWARDSHIP PLAN. (1) Beginning January 1, 2027, each producer selling, making available for sale, or distributing covered batteries or battery-containing products in or into the state of Washington shall participate in an approved Washington state battery stewardship plan through participation in and appropriate funding of a battery stewardship organization.

(2) A producer that does not participate in a battery stewardship organization and battery stewardship plan may not sell covered batteries or battery-containing products covered by this chapter in or into Washington.

NEW SECTION. **Sec. 4.** ROLE OF RETAILERS. (1) Beginning July 1, 2027, for portable batteries, and July 1, 2029, for medium format batteries, a retailer may not sell, offer for sale, distribute, or otherwise make available for sale a covered battery or battery-containing product unless the producer of the covered battery or battery-containing product certifies to the retailer that the producer participates in a battery stewardship organization whose plan has been approved by the department.

(2) A retailer is in compliance with the requirements of subsection (1) of this section and is not subject to penalties under section 12 of this act as long as the website made available by the department under section 11 of this act lists, as of the date a product is made available for retail sale, a producer or brand of covered battery or battery-containing product sold by the retailer as being a participant in an approved plan or the implementer of an approved plan.

(3) Retailers of covered batteries or battery-containing products are not required to make retail locations available to serve as collection sites for a stewardship program operated by a battery stewardship organization. Retailers that serve as a collection site must comply with the requirements for collection sites, consistent with section 8 of this act.

(4) A retailer may not sell, offer for sale, distribute, or otherwise make available for sale covered batteries, unless those batteries are marked consistent with the requirements of section 14 of this act. A producer of a battery-containing product containing a covered battery must certify to the retailers of their product that the battery contained in the battery-containing product is marked consistent with the requirements of section 14 of this act. A retailer may rely on this certification for purposes of compliance under this subsection.

(5) A retailer selling or offering covered batteries or battery-containing products for sale in Washington may provide information, provided to the retailer by the battery stewardship organization, regarding available end-of-life management options for covered batteries collected by the battery stewardship organization. The information that a battery stewardship organization must make available to retailers for voluntary use by retailers must include, but is not limited to, in-store signage, written materials, and other promotional materials that retailers may use to inform customers of the available end-of-life management options for covered batteries collected by the battery stewardship organization.

(6) Retailers, producers, or battery stewardship organizations may not charge a specific point-of-sale fee to consumers to cover the administrative or operational costs of the battery stewardship organization or the battery stewardship program.

NEW SECTION. **Sec. 5.** STEWARDSHIP PLAN COMPONENTS. (1) By July 1, 2026, or within six months of the adoption of rules under section 11 of this act, whichever comes later, each battery stewardship organization must submit a plan for covered portable batteries to the department for approval. Within 24 months of the date of the initial adoption of rules under this chapter by the department, each battery stewardship organization must submit a plan for covered medium format batteries to the department for approval. A battery stewardship organization may submit a plan at any time to the department for review and approval. The department must review and may approve a plan based on whether it contains and adequately addresses the following components:

(a) Lists and provides contact information for each producer, battery brand, and battery-containing product brand covered in the plan;

(b) Proposes performance goals, consistent with section 6 of this act, including establishing performance goals for each of the next three upcoming calendar years of program implementation;

(c) Describes how the battery stewardship organization will make retailers aware of their obligation to sell only covered batteries and battery-containing products of producers participating in an approved plan;

(d) Describes the education and communications strategy being implemented to effectively promote participation in the approved covered battery stewardship program and provide the information necessary for

effective participation of consumers, retailers, and others;

(e) Describes how the battery stewardship organization will make available to retailers, for voluntary use, in-store signage, written materials, and other promotional materials that retailers may use to inform customers of the available end-of-life management options for covered batteries collected by the battery stewardship organization;

(f) A list of promotional activities to be undertaken, and the identification of consumer awareness goals and strategies that the program will employ to achieve these goals after the program begins to be implemented;

(g) Includes collection site safety training procedures related to covered battery collection activities at collection sites, including appropriate protocols to reduce risks of spills or fires and response protocols in the event of a spill or fire, and a protocol for safe management of damaged batteries that are returned to collection sites;

(h) A description of the method to establish and administer a means for fully funding the program in a manner that equitably distributes the program's costs among the producers that are part of the battery stewardship organization. For producers that elect to meet the requirements of this chapter individually, without joining a battery stewardship organization, a description of the proposed method to establish and administer a means for fully funding the program;

(i) A description of the financing methods used to implement the plan, consistent with section 7 of this act, including how producer fees and fee modulation will incorporate design for recycling and resource conservation as objectives, and a template reimbursement agreement, developed in consultation with local governments and other program stakeholders;

(j) A description of how the program will collect all covered battery chemistries and brands on a free, continuous, convenient, visible, and accessible basis, and consistent with the requirements of section 8 of this act, including a description of how the statewide convenience standard will be met and a list of collection sites, including the address and latitude and longitude of collection sites;

(k) A description of the criteria to be used in the program to determine whether an entity may serve as a collection site for discarded batteries under the program;

(l) Collection goals for each of the first three years of implementation of the battery stewardship plan that are based on the estimated total weight of primary and rechargeable covered batteries that have been sold in the state in the previous three calendar years by the producers participating in the battery stewardship plan;

(m) Identification of proposed brokers, transporters, processors, and facilities to be used by the program for the final disposition of batteries and how collected batteries will be managed in:

(i) An environmentally sound and socially just manner at facilities operating with human health and environmental protection standards that are broadly equivalent to or better than those required in the United States and other countries that are members of the battery stewardship organization for economic cooperation and development; and

(ii) A manner consistent with the battery management hierarchy, including how each proposed facility used for the final disposition of batteries will recycle or otherwise manage batteries;

(n) Details how the program will achieve a recycling efficiency rate, calculated consistent with section 10 of this act, of at least 60 percent for rechargeable batteries and at least 70 percent for primary batteries; and

(o) Proposes goals for increasing public awareness of the program, including subgoals applicable to public awareness of the program in vulnerable populations and overburdened communities identified by the department under chapter 70A.02 RCW, and describes how the public education and outreach components of the program under section 9 of this act will be implemented.

(2) If required by the department, a battery stewardship organization must submit a new plan to the department for approval:

(a) If there are significant changes to the methods of collection, transport, or end-of-life management of covered batteries under section 8 of this act that are not covered by the plan. The department may, by rule, identify the types of significant changes that require a new plan to be submitted to the department for approval. For purposes of this subsection, adding or removing a processor or transporter under the plan is not considered a significant change that requires a plan resubmittal;

(b) To address the novel inclusion of medium format batteries or large format batteries as covered batteries under the plan; and

(c) No less than every five years.

(3) If required by the department, a battery stewardship organization must provide plan amendments to the department for approval:

(a) When proposing changes to the performance goals under section 6 of this act based on the up-to-date experience of the program;

(b) When there is a change to the method of financing plan implementation under section 7 of this act. This does not include changes to the fees or fee structure established in the plan; or

(c) When adding or removing a processor or transporter, as part of a quarterly update submitted to the department.

(4) As part of a quarterly update, a battery stewardship organization must notify the department after a producer begins or ceases to participate in a battery stewardship organization. The quarterly update submitted to the department must also include a current list of the producers and brands participating in the plan.

(5) No earlier than five years after the initial approval of a plan, the department may require a battery stewardship organization to submit a revised plan, which

may include improvements to the collection site network or increased expenditures dedicated to education and outreach if the approved plan has not met the performance goals under section 6 of this act.

NEW SECTION. **Sec. 6.** STEWARDSHIP PROGRAM COMPONENTS—PERFORMANCE GOALS. (1) Each battery stewardship plan must include performance goals that measure, on an annual basis, the achievements of the program. Performance goals must take into consideration technical feasibility and economic practicality in achieving continuous, meaningful progress in improving:

(a) The rate of battery collection for recycling in Washington;

(b) The recycling efficiency of the program; and

(c) Public awareness of the program.

(2) The performance goals established in each battery stewardship plan must include, but are not limited to:

(a) Target collection rates;

(b) Target recycling efficiency rates of at least 60 percent for rechargeable batteries and at least 70 percent for primary batteries; and

(c) Goals for public awareness, convenience, and accessibility that meet or exceed the minimum requirements established in section 8 of this act.

NEW SECTION. **Sec. 7.** STEWARDSHIP PROGRAM COMPONENTS—FUNDING. (1) Each battery stewardship organization must ensure adequate funding is available to fully implement approved battery stewardship plans, including the implementation of aspects of the plan addressing:

(a) Battery collection, transporting, and processing;

(b) Education and outreach;

(c) Program evaluation; and

(d) Payment of the administrative fees to the department under section 11 of this act.

(2) A battery stewardship organization implementing a battery stewardship plan on behalf of producers must develop, and continually improve over the years of program implementation, a system to collect charges from participating producers to cover the costs of plan implementation in an environmentally sound and socially just manner that encourages the use of design attributes that reduce the environmental impacts of covered batteries, such as through the use of eco-modulated fees. Examples of fee structures that meet the requirements of this subsection include using eco-modulated fees to:

(a) Encourage designs intended to facilitate reuse and recycling;

(b) Encourage the use of recycled content;

(c) Discourage the use of problematic materials that increase system costs of managing covered batteries; and

(d) Encourage other design attributes that reduce the environmental impacts of covered batteries.

(3)(a) Each battery stewardship organization is responsible for all costs of participating covered battery collection, transportation, processing, education, administration, agency reimbursement, recycling, and end-of-life management in accordance with the battery management hierarchy and environmentally sound management practices.

(b) Each battery stewardship organization must meet the collection goals as specified in section 5 of this act.

(c) A battery stewardship organization is not authorized to reduce or cease collection, education and outreach, or other activities implemented under an approved plan based on achievement of program performance goals.

(4)(a) A battery stewardship organization must reimburse local governments for demonstrable costs, as defined by rules adopted by the department, incurred as a result of a local government facility or solid waste handling facility serving as a collection site for a program including, but not limited to, associated labor costs and other costs associated with accessibility and collection site standards such as storage.

(b) A battery stewardship organization shall at a minimum provide collection sites with appropriate containers for covered batteries subject to its program, training, signage, safety guidance, and educational materials, at no cost to the collection sites.

(c) A battery stewardship organization must include in its battery stewardship plan a template of the service agreement and any other forms, contracts, or other documents for use in distribution of reimbursements. The service agreement template must be developed with local government input. The entities seeking or receiving reimbursement from the battery stewardship organization are not required to use the template agreement included in the program plan and are not limited to the terms of the template agreement included in the program plan.

NEW SECTION. **Sec. 8.** STEWARDSHIP PROGRAM COMPONENTS—COLLECTION AND MANAGEMENT REQUIREMENTS. (1) Battery stewardship organizations implementing a battery stewardship plan must provide for the collection of all covered batteries, including all chemistries and brands of covered batteries, on a free, continuous, convenient, visible, and accessible basis to any person, business, government agency, or nonprofit organization. Except as provided in subsection (2)(b) of this section, each battery stewardship plan must allow any person, business, government agency, or nonprofit organization to discard each chemistry and brand of covered battery at each collection site that counts towards the satisfaction of the collection site criteria in subsection (3) of this section.

(2)(a) For each collection site utilized by the program, each battery stewardship organization must provide suitable collection containers for covered batteries that are segregated from other solid waste or make mutually agreeable alternative arrangements for the collection of batteries at the site. The location of collection

containers at each collection site used by the program must be within view of a responsible person and must be accompanied by signage made available to the collection site by the battery stewardship organization that informs customers regarding the end-of-life management options for batteries provided by the collection site under this chapter. Each collection site must adhere to the operations manual and other safety information provided to the collection site by the battery stewardship organization.

(b) Medium format batteries may only be collected at household hazardous waste collection sites or other sites that are staffed by persons who are certified to handle and ship hazardous materials under federal regulations adopted by the United States department of transportation pipeline and hazardous materials safety administration.

(c)(i) Damaged and defective batteries are intended to be collected at collection sites staffed by persons trained to handle and ship those batteries.

(ii) Each battery stewardship organization must provide for collection of damaged and defective batteries in each county of the state, either through collection sites or collection events with qualified staff as specified in (c)(i) of this subsection. Collection events should be provided periodically throughout the year where practicable, but must be provided at least once per year at a minimum, in each county in which there are not permanent collection sites providing for the collection of damaged and defective batteries.

(iii) As used in this subsection, "damaged and defective batteries" means batteries that have been damaged or identified by the manufacturer as being defective for safety reasons, that have the potential of producing a dangerous evolution of heat, fire, or short circuit, as referred to in 49 C.F.R. Sec. 173.185(f) as of January 1, 2023, or as updated by the department by rule to maintain consistency with federal standards.

(3)(a) Each battery stewardship organization implementing a battery stewardship plan shall ensure statewide collection opportunities for all covered batteries. Battery stewardship organizations shall coordinate activities with other program operators, including covered battery collection and recycle programs and electronic waste recyclers, with regard to the proper management or recycling of collected covered batteries, for purposes of providing the efficient delivery of services and avoiding unnecessary duplication of effort and expense. Statewide collection opportunities must be determined by geographic information modeling that considers permanent collection sites. A program may rely, in part, on collection events to supplement the permanent collection services required in (a) and (b) of this subsection. However, only permanent collection services specified in (a) and (b) of this subsection qualify towards the satisfaction of the requirements of this subsection.

(b) For portable batteries, each battery stewardship organization must provide statewide collection opportunities that include, but are not limited to, the provision of:

(i) At least one permanent collection site for portable batteries within a 15 mile radius for at least 95 percent of Washington residents;

(ii) The establishment of collection sites that are accessible and convenient to overburdened communities identified by the department under chapter 70A.02 RCW, in an amount that is roughly proportional to the number and population of overburdened communities identified by the department under chapter 70A.02 RCW relative to the population or size of the state as a whole;

(iii) At least one permanent collection site for portable batteries in addition to those required in (b)(i) of this subsection for every 30,000 residents of each urban area in this state. For the purposes of compliance with this subsection (3)(b)(iii), a battery stewardship organization and the department may rely upon new or updated designations of urban locations by the United States census bureau that are determined by the department to be similar to the definition of urban areas in section 2 of this act;

(iv) Collection opportunities for portable batteries at special locations where batteries are often spent and replaced, such as supervised locations at parks with stores and campgrounds; and

(v) Service to areas without a permanent collection site, including service to island and geographically isolated communities without a permanent collection site.

(c) For medium format batteries, a battery stewardship organization must provide statewide collection opportunities that include, but are not limited to, the provision of:

(i) At least 25 permanent collection sites in Washington;

(ii) Reasonable geographic dispersion of collection sites throughout the state;

(iii) A collection site in each county of at least 200,000 persons, as determined by the most recent population estimate of the office of financial management;

(iv) The establishment of collection sites that are accessible to public transit and that are convenient to overburdened communities identified by the department under chapter 70A.02 RCW; and

(v) Service to areas without a permanent collection site, including service to island and geographically isolated communities. A battery stewardship organization must ensure that there is a collection site or annual collection event in each county of the state. Collection events should be provided periodically throughout the year where practicable, but must be provided at least once per year at a minimum in each county in which there are not permanent collection sites providing for the collection of damaged and defective batteries.

(4)(a) Battery stewardship programs must use existing public and private waste collection services and facilities, including battery collection sites that are established through other battery collection

services, transporters, consolidators, processors, and retailers, where cost-effective, mutually agreeable, and otherwise practicable.

(b)(i) Battery stewardship programs must use as a collection site for covered batteries any retailer, wholesaler, municipality, solid waste management facility, or other entity that meets the criteria for collection sites in the approved plan, upon the submission of a request by the entity to the battery stewardship organization to serve as a collection site.

(ii) Battery stewardship programs must use as a site for a collection event for covered batteries any retailer, wholesaler, municipality, solid waste management facility, or other entity that meets the criteria for collection events in the approved plan, upon the submission of a request by the entity to the battery stewardship organization to serve as a site for a collection event. An agreement between a battery stewardship organization and the entity requesting to hold a collection event must be established at least 60 days prior to any collection of covered batteries under a stewardship program. All costs associated with collection events initiated by an entity other than a battery stewardship organization are the sole responsibility of the entity unless otherwise agreed upon by a battery stewardship organization. A collection event under this subsection (4)(b)(ii) must allow any person to discard each chemistry and brand of covered battery at the collection event.

(c) An entity that operates a temporary collection event for a stewardship program may retain collected materials if the collected materials are collected, transported, and processed at the expense of the entity and in a manner that meet the standards established for the battery stewardship organization in the plan approved by the department, including processing of collected materials at a facility approved under the battery stewardship organization plan. An entity that retains collected materials must report, to the battery stewardship organization, information necessary for the battery stewardship organization to fulfill its reporting obligations under section 10 of this act. A battery stewardship organization may count materials collected by an entity under this subsection (4)(c) towards the achievement of performance requirements established in section 6 of this act.

(d) A local government facility may collect batteries through a collection site or temporary collection event that is not a collection site or event under the program implemented by a battery stewardship organization. A local government facility that collects covered batteries under this subsection must collect each chemistry and brand of covered battery at its collection site or sites, and must collect, transport, and process collected materials in a manner that meets the standards established for the battery stewardship organization in the plan approved by the department. A local government facility that collects materials at a collection site or temporary collection event operating outside of a battery stewardship program must report, to a battery stewardship organization, information necessary for the battery stewardship organization to fulfill its reporting obligations under section 10 of this act. A battery stewardship organization may count materials collected by a local government facility under this subsection (4)(d) towards the achievement of performance requirements established in section 6 of this act.

(e) A battery stewardship organization may suspend or terminate a collection site or service that does not adhere to the collection site criteria in the approved plan and that poses an immediate health and safety concern.

(5)(a) Stewardship programs are not required to provide for the collection of battery-containing products.

(b) Stewardship programs are not required to provide for the collection of batteries that:

(i) Are not easily removable from the product other than by the manufacturer; and

(ii) Remain contained in a battery-containing product at the time of delivery to a collection site.

(c) Stewardship programs are required to provide for the collection of loose batteries.

(d) Stewardship programs are not required to provide for the collection of batteries still contained in covered electronic products under chapter 70A.500 RCW.

(6) Batteries collected by the program must be managed consistent with the battery management hierarchy. Lower priority end-of-life battery management options on the battery management hierarchy may be used by a program only when a battery stewardship organization documents to the department that all higher priority battery management options on the battery management hierarchy are not technologically feasible or economically practical.

NEW SECTION. **Sec. 9.** STEWARDSHIP PROGRAM COMPONENTS—EDUCATION AND OUTREACH REQUIREMENTS. (1) Each battery stewardship organization must carry out promotional activities in support of plan implementation including, but not limited to, the development:

(a) And maintenance of a website;

(b) And distribution of periodic press releases and articles;

(c) And placement of advertisements for use on social media or other relevant media platforms;

(d) Of promotional materials about the program and the restriction on the disposal of covered batteries in section 15 of this act to be used by retailers, government agencies, and nonprofit organizations;

(e) And distribution of collection site safety training procedures that are in compliance with state law to collection sites to help ensure proper management of covered batteries at collection sites; and

(f) And implementation of outreach and educational resources targeted to overburdened communities and vulnerable

populations identified by the department under chapter 70A.02 RCW that are conceptually, linguistically, and culturally accurate for the communities served and reach the state's diverse ethnic populations, including through meaningful consultation with communities that bear disproportionately higher levels of adverse environmental and social justice impacts.

(2) Each battery stewardship organization must provide:

(a) Consumer-focused educational promotional materials to each collection site used by the program and accessible by customers of retailers that sell covered batteries or battery-containing products; and

(b) Safety information related to covered battery collection activities to the operator of each collection site, including appropriate protocols to reduce risks of spills or fires and response protocols in the event of a spill or fire.

(3)(a) Each battery stewardship organization must provide educational materials to the operator of each collection site for the management of recalled batteries, which are not intended to be part of collection as provided under section 8 of this act, to help facilitate transportation and processing of recalled batteries.

(b) A battery stewardship organization may seek reimbursement from the producer of the recalled battery for expenses incurred in the collection, transportation, or processing of those batteries.

(4) Upon request by a retailer, the battery stewardship organization must provide the retailer educational materials describing collection opportunities for batteries.

(5) If multiple battery stewardship organizations are implementing plans approved by the department, the battery stewardship organizations must coordinate in carrying out their education and outreach responsibilities under this section and must include in their annual reports to the department under section 10 of this act a summary of their coordinated education and outreach efforts.

(6) During the first year of program implementation and every five years thereafter, each battery stewardship organization must carry out a survey of public awareness regarding the requirements of the program established under this chapter, including the provisions of section 15 of this act. Each battery stewardship organization must share the results of the public awareness surveys with the department.

NEW SECTION. **Sec. 10.** REPORTING REQUIREMENTS. (1) By June 1, 2028, and each June 1st thereafter, each battery stewardship organization must submit an annual report to the department covering the preceding calendar year of battery stewardship plan implementation. The report must include:

(a) An independent financial assessment of a program implemented by the battery stewardship organization, including a breakdown of the program's expenses, such as collection, recycling, education, and overhead, when required by the department;

(b) A summary financial statement documenting the financing of a battery stewardship organization's program and an analysis of program costs and expenditures, including an analysis of the program's expenses, such as collection, transportation, recycling, education, and administrative overhead. The summary financial statement must be sufficiently detailed to provide transparency that funds collected from producers as a result of their activities in Washington are spent on program implementation in Washington. Battery stewardship organizations implementing similar battery stewardship programs in multiple states may submit a financial statement including all covered states, as long as the statement breaks out financial information pertinent to Washington;

(c) The weight, by chemistry, of covered batteries collected under the program;

(d) The weight of materials recycled from covered batteries collected under the program, in total, and by method of battery recycling;

(e) A calculation of the recycling efficiency rates, as measured consistent with subsection (2) of this section;

(f) For each facility used for the final disposition of batteries, a description of how the facility recycled or otherwise disposed of batteries and battery components;

(g) The weight and chemistry of batteries sent to each facility used for the final disposition of batteries. The information in this subsection (1)(g) may be approximated for program operations in Washington based on extrapolations of national or regional data for programs in operation in multiple states;

(h) The collection rate achieved under the program, including a description of how this collection rate was calculated;

(i) The estimated aggregate sales, by weight and chemistry, of batteries and batteries contained in or with battery-containing products sold in Washington by participating producers for each of the previous three calendar years;

(j) A description of the manner in which the collected batteries were managed and recycled, including a discussion of best available technologies and the recycling efficiency rate;

(k) A description of education and outreach efforts supporting plan implementation including, but not limited to, a summary of education and outreach provided to consumers, collection sites, manufacturers, distributors, and retailers by the program operator for the purpose of promoting the collection and recycling of covered batteries, a description of how that education and outreach met the requirements of section 9 of this act, samples of education and outreach materials, a summary of coordinated education and outreach efforts with any other battery stewardship organizations implementing a plan approved by the department, and a summary of any changes made during the previous calendar year to education and outreach activities;

(l) A list of all collection sites and accompanying latitude and longitude data and an address for each listed site, and an up-to-date map indicating the location of all collection sites used to implement the program, with links to appropriate websites where there are existing websites associated with a site;

(m) A description of methods used to collect, transport, and recycle covered batteries by the battery stewardship organization;

(n) A summary on progress made towards the program performance goals established under section 6 of this act, and an explanation of why performance goals were not met, if applicable; and

(o) An evaluation of the effectiveness of education and outreach activities.

(2) The weight of batteries or recovered resources from those batteries must only be counted once and may not be counted by more than one battery stewardship organization.

(3) In addition to the requirements of subsection (1) of this section, with respect to each facility used in the processing or disposition of batteries collected under the program, the battery stewardship organization must report:

(a) Whether the facility is located domestically, in an organization for economic cooperation and development country, or in a country that meets organization for economic cooperation and development operating standards; and

(b) What facilities processed the batteries, including a summary of any violations of environmental or labor laws and regulations over the previous three years at each facility.

(4) If a battery stewardship organization has disposed of covered batteries though energy recovery, incineration, or landfilling during the preceding calendar year of program implementation, the annual report must specify the steps that the battery stewardship organization will take to make the recycling of covered batteries cost-effective, where possible, or to otherwise increase battery recycling rates achieved by the battery stewardship organization.

(5) A producer or battery stewardship organization that submits information or records to the department under this chapter may request that the information or records be made available only for the confidential use of the department, the director of the department, or the appropriate division of the department. The director of the department must consider the request and if this action is not detrimental to the public interest and is otherwise in accordance with the policies and purposes of chapter 43.21A RCW, the director must grant the request for the information to remain confidential as authorized in RCW 43.21A.160.

NEW SECTION. **Sec. 11.** FEE AND DEPARTMENT OF ECOLOGY ROLE. (1) The department must adopt rules as necessary for the purpose of implementing, administering, and enforcing this chapter. The department must by rule establish fees, to be paid annually by a battery stewardship organization, that are adequate to cover the department's full costs of implementing, administering, and enforcing this chapter and allocates costs between battery stewardship organizations, if applicable. If the department adopts rules that require producers of certain large format batteries or other battery categories addressed in sections 16 and 17 of this act to participate in a battery stewardship organization regulated by the department, the department may establish fees to be paid annually by a battery stewardship organization that are adequate to cover the department's full costs of implementing, administering, and enforcing the requirements of this chapter applicable to those batteries. All fees must be based on costs related to implementing, administering, and enforcing this chapter, not to exceed expenses incurred by the department for these activities.

(2) The responsibilities of the department in implementing, administering, and enforcing this chapter include, but are not limited to:

(a) Reviewing submitted stewardship plans and plan amendments and making determinations as to whether to approve the plan or plan amendment;

(i) The department must provide a letter of approval for the plan or plan amendment if it provides for the establishment of a stewardship program that meets the requirements of sections 3 through 9 of this act;

(ii) If a plan or plan amendment is rejected, the department must provide the reasons for rejecting the plan to the battery stewardship organization. The battery stewardship organization must submit a new plan within 60 days after receipt of the letter of disapproval; and

(iii) When a plan or an amendment to an approved plan is submitted under this section, the department shall make the proposed plan or amendment available for public review and comment for at least 30 days;

(b) Reviewing annual reports submitted under section 10 of this act within 90 days of submission to ensure compliance with that section;

(c)(i) Maintaining a website that lists producers and their brands that are participating in an approved plan, and that makes available to the public each plan, plan amendment, and annual report received by the department under this chapter;

(ii) Upon the date the first plan is approved, the department must post on its website a list of producers and their brands for which the department has approved a plan. The department must update the list of producers and brands participating under an approved program plan based on information provided to the department from battery stewardship organizations; and

(d) Providing technical assistance to producers and retailers related to the requirements of this chapter and issuing orders or imposing civil penalties authorized under section 12 of this act where the technical assistance efforts do not lead to compliance by a producer or retailer.

(3) Beginning January 1, 2032, and every five years thereafter, after consultation with battery stewardship organizations, the department may by rule increase the minimum recycling efficiency rates established in section 6 of this act based on the most economically and technically feasible processes and methodology available.

NEW SECTION. **Sec. 12.** PENALTIES AND CIVIL ACTION PROVISIONS. (1)(a) A battery stewardship organization implementing an approved plan may bring a civil action or actions to recover costs, damages, and fees, as specified in this section, from a producer who sells or otherwise makes available in Washington covered batteries, battery-containing products, or large format batteries not included in an approved plan in violation of the requirements of this chapter. An action under this section may be brought against one or more defendants. An action may only be brought against a defendant producer when the stewardship program incurs costs in Washington, including reasonable incremental administrative and program promotional costs, in excess of $1,000 to collect, transport, and recycle or otherwise dispose of the covered batteries, battery-containing products, or large format batteries of a nonparticipating producer.

(b) A battery stewardship organization may bring a civil action against a producer of a recalled battery to recover costs associated with handling a recalled battery.

(c) A battery stewardship organization implementing an approved stewardship plan may bring a civil action against another battery stewardship organization that under performs on its battery collection obligations under this chapter by failing to collect and provide for the end-of-life management of batteries in an amount roughly equivalent to costs imposed on the plaintiff battery stewardship organization by virtue of the failures of the defendants, plus legal fees and expenses.

(d) The remedies provided in this subsection are in addition to the enforcement authority of the department and do not limit and are not limited by a decision by the department to impose a civil penalty or issue an order under subsection (2) of this section. The department is not required to audit, participate in, or provide assistance to a battery stewardship organization pursuing a civil action authorized under this subsection.

(2)(a) The department may administratively impose a civil penalty on a person who violates this chapter in an amount of up to $1,000 per violation per day.

(b) The department may administratively impose a civil penalty of up to $10,000 per violation per day on a person for repeated violations of this chapter or failure to comply with an order issued under (c) of this subsection.

(c) Whenever on the basis of any information the department determines that a person has violated or is in violation of this chapter, the department may issue an order requiring compliance. A person who fails to take corrective action as specified in a compliance order is liable for a civil penalty as provided in (b) of this subsection, without receiving a written warning prescribed in (e) of this subsection.

(d) A person who is issued an order or incurs a penalty under this section may appeal the order or penalty to the pollution control hearings board established by chapter 43.21B RCW.

(e) Prior to imposing penalties under this section, the department must provide a producer, retailer, or battery stewardship organization with a written warning for the first violation by the producer, retailer, or battery stewardship organization of the requirements of this chapter. The written warning must inform a producer, retailer, or battery stewardship organization that it must participate in an approved plan or otherwise come into compliance with the requirements of this chapter within 30 days of the notice. A producer, retailer, or battery stewardship organization that violates a provision of this chapter after the initial written warning may be assessed a penalty as provided in this subsection.

(3) Penalties levied under subsection (2) of this section must be deposited in the model toxics control operating account created in RCW 70A.305.180.

(4) No penalty may be assessed on an individual or resident for the improper disposal of covered batteries as described in section 15 of this act in a noncommercial or residential setting.

NEW SECTION. **Sec. 13.** RESPONSIBLE BATTERY MANAGEMENT ACCOUNT. The responsible battery management account is created in the custody of the state treasurer. All receipts from fees paid under this chapter must be deposited in the account. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Moneys in the account may be used solely by the department for administering, implementing, and enforcing the requirements of this chapter. Funds in the account may not be diverted for any purpose or activity other than those specified in this section.

NEW SECTION. **Sec. 14.** MARKING REQUIREMENTS FOR BATTERIES. (1) Beginning January 1, 2028, a producer or retailer may only sell, distribute, or offer for sale in or into Washington a large format battery, covered battery, or battery-containing product that contains a battery that is designed or intended to be easily removable from the product, if the battery is:

(a) Marked with an identification of the producer of the battery, unless the battery is less than one-half inch in diameter or does not contain a surface whose length exceeds one-half inch; and

(b) Beginning January 1, 2030, marked with proper labeling to ensure proper collection and recycling, by identifying the chemistry of the battery and including an

indication that the battery should not be disposed of as household waste.

(2) A producer shall certify to its customers, or to the retailer if the retailer is not the customer, that the requirements of this section have been met, as provided in section 4 of this act.

(3) The department may amend, by rule, the requirements of subsection (1) of this section to maintain consistency with the labeling requirements or voluntary standards for batteries established in federal law.

NEW SECTION. **Sec. 15.** GENERAL BATTERY DISPOSAL AND COLLECTION REQUIREMENTS. Effective July 1, 2027, for portable batteries and July 1, 2029, for medium format batteries, or the first date on which an approved plan begins to be implemented under this chapter by a battery stewardship organization, whichever comes first:

(1) All persons must dispose of unwanted covered batteries through one of the following disposal options:

(a) Disposal using the collection sites established by or included in the programs created by this chapter;

(b) For covered batteries generated by persons that are regulated generators of covered batteries under federal or state hazardous or solid waste laws, disposal in a manner consistent with the requirements of those laws; or

(c) Disposal using local government collection facilities that collect batteries consistent with section 8(4)(d) of this act.

(2)(a) A fee may not be charged at the time unwanted covered batteries are delivered or collected for management.

(b) All covered batteries may only be collected, transported, and processed in a manner that meets the standards established for a battery stewardship organization in a plan approved by the department, unless the batteries are being managed as described in subsection (1)(b) of this section.

(3) A person may not place covered batteries in waste containers for disposal at incinerators, waste to energy facilities, or landfills.

(4) A person may not place covered batteries in or on a container for mixed recyclables unless there is a separate location or compartment for the covered battery that complies with local government collection standards or guidelines.

(5) An owner or operator of a solid waste facility may not be found in violation of this section if the facility has posted in a conspicuous location a sign stating that covered batteries must be managed through collection sites established by a battery stewardship organization and are not accepted for disposal.

(6) A solid waste collector may not be found in violation of this section for a covered battery placed in a disposal container by the generator of the covered battery.

NEW SECTION. **Sec. 16.** DEPARTMENT ASSESSMENT OF LARGE FORMAT BATTERIES, MEDICAL DEVICES, LEAD ACID BATTERIES, AND BATTERY-CONTAINING PRODUCTS AND THEIR BATTERIES. (1) By July 1, 2027, the department must complete an assessment of the opportunities and challenges associated with the end-of-life management of batteries that are not covered batteries, including:

(a) Large format batteries;

(b) Lead acid batteries that are greater than 11 pounds or are subject to the provisions of RCW 70A.205.505 through 70A.205.530;

(c) Batteries contained in medical devices, as specified in Title 21 U.S.C. Sec. 360c as it existed as of the effective date of this section; and

(d) Batteries not intended or designed to be easily removed by a customer that are contained in battery-containing products, including medical devices, and in electronic products that are not covered electronic products managed under an approved plan implemented under chapter 70A.500 RCW.

(2) The department must consult with the department of commerce and interested stakeholders in completing the assessment, including consultation with overburdened communities and vulnerable populations identified by the department under chapter 70A.02 RCW. The assessment must identify any needed adjustments to the stewardship program requirements established in this chapter that are necessary to maximize public health, safety, and environmental benefits, such as battery reuse.

(3) The assessment must consider:

(a) The different categories and uses of batteries and battery-containing products listed in subsection (1) of this section;

(b) The current economic value and reuse or recycling potential of large format batteries or large format battery components and a summary of studies examining the environmental and equity implications of displacing demand for new rare earth materials, critical materials, and other conflict materials through the reuse and recycling of batteries;

(c) The current methods by which unwanted batteries and battery-containing products listed in subsection (1) of this section are managed in Washington and nearby states and provinces;

(d) Challenges posed by the potential collection, management, and transport of batteries and battery-containing products listed in subsection (1) of this section, including challenges associated with removing batteries that were not intended or designed to be easily removable from products, other than by the manufacturer; and

(e) Which criteria of this chapter should apply to batteries and battery-containing products listed in subsection (1) of this section in a manner that is identical or analogous to the requirements applicable to covered batteries.

(4) By October 1, 2027, the department must submit a report to the appropriate committees of the legislature containing the findings of the assessment required in this section.

NEW SECTION. **Sec. 17.** DEPARTMENT OF ECOLOGY RULE MAKING TO REQUIRE THE ESTABLISHMENT OF STEWARDSHIP PROGRAM PARTICIPATION REQUIREMENTS FOR LARGE FORMAT

BATTERIES, MEDICAL DEVICES, LEAD ACID BATTERIES, AND BATTERY-CONTAINING PRODUCTS AND THEIR BATTERIES. (1) By January 1, 2030, the department may, but is not required to, adopt rules that require producers of batteries and battery-containing products assessed in section 16 of this act to participate in a stewardship program that achieves environmentally positive outcomes similar to those achieved by a battery stewardship program for medium format and portable batteries. As part of this rule, the department may apply some or all of the provisions of section 15 of this act to these batteries and battery-containing products. Nothing in this subsection restricts the department from adopting or updating rules after January 1, 2030, provided that the department has adopted rules under this section prior to January 1, 2030.

(2) Any rules adopted by the department under this section must require producers of batteries and battery-containing products assessed in section 16 of this act to participate in a stewardship program by no earlier than July 1, 2031.

(3) In adopting rules, the department must consider the results of the assessment required under section 16 of this act and involve the expertise of the department's recycling development center created in chapter 70A.240 RCW.

(4) The department must delay or exclude categories of batteries or battery-containing products, including categories of large format batteries and batteries that are excluded from the definition of a covered battery in section 2 of this act, based on the results of the assessment required under section 16 of this act, from stewardship program requirements, if the department determines that stewardship program requirements are infeasible for a category of batteries or battery-containing products because:

(a) An existing industry or other battery management system exists for the battery or battery-containing product category covered by the assessment in section 16 of this act that currently attains a rate of collection that exceeds 95 percent of the number of that category of batteries sold in Washington each year, and the existing battery management system processes the batteries using environmentally sound management practices; or

(b) A delay or exclusion from program participation requirements is necessary to protect human health or the environment.

(5) The department must exclude from any rules adopted by the department under this section any large format batteries contained in or originating from electric vehicles if, by July 1, 2030, electric vehicle batteries are managed under state law in a manner that achieves similar outcomes to the program created in this chapter.

(6) In addition to the exemptions established in subsections (4) and (5) of this section, the department may exclude producers from some or all of the stewardship program requirements under the rules adopted by the department, based on other factors determined by the department.

NEW SECTION. **Sec. 18.** DEPARTMENT OF ECOLOGY RECOMMENDATIONS FOR MANAGEMENT OF ELECTRIC VEHICLE BATTERIES. (1) By November 30, 2023, the department of ecology must submit a report to the appropriate committees of the legislature on preliminary policy recommendations for the collection and management of electric vehicle batteries. By April 30, 2024, the department of ecology must report to the appropriate committees of the legislature on final policy recommendations for the collection and management of electric vehicle batteries.

(2) In developing the recommendations under subsection (1) of this section, the department of ecology must:

(a) Solicit input from representatives of automotive wrecking and salvage yards, solid waste collection and processing companies, local governments, environmental organizations, electric vehicle manufacturers, and any other interested parties; and

(b) Examine best practices in other states and jurisdictions.

NEW SECTION. **Sec. 19.** ANTITRUST. Producers or battery stewardship organizations acting on behalf of producers that prepare, submit, and implement a battery stewardship program plan pursuant to this chapter and who are thereby subject to regulation by the department are granted immunity from state laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade and commerce, for the limited purpose of planning, reporting, and operating a battery stewardship program, including:

(1) The creation, implementation, or management of a battery stewardship organization and any battery stewardship plan regardless of whether it is submitted, denied, or approved;

(2) The determination of the cost and structure of a battery stewardship plan; and

(3) The types or quantities of batteries being recycled or otherwise managed pursuant to this chapter.

NEW SECTION. **Sec. 20.** AUTHORITY OF THE UTILITIES AND TRANSPORTATION COMMISSION. Nothing in this chapter changes or limits the authority of the Washington utilities and transportation commission to regulate collection of solid waste, including curbside collection of residential recyclable materials, nor does this chapter change or limit the authority of a city or town to provide the service itself or by contract under RCW 81.77.020.

Sec. 21. RCW 43.21B.110 and 2022 c 180 s 812 are each amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70A.15 RCW, local health departments, the department of natural resources, the department of fish and

wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, section 12 of this act, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070, 70A.245.020, 70A.65.200, section 12 of this act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70A.205.260.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70A.205 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70A.226.090.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70A.205.145.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(i) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(j) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(l) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(m) Decisions of an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable by the hearings board under RCW 79.100.120.

(n) Decisions of the department of ecology that are appealable under RCW 70A.245.020 to set recycled minimum postconsumer content for covered products or to temporarily exclude types of covered products in plastic containers from minimum postconsumer recycled content requirements.

(o) Orders by the department of ecology under RCW 70A.455.080.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100, 70A.15.3110, and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

Sec. 22. RCW 43.21B.300 and 2022 c 180 s 813 are each amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160, 70A.205.280, 70A.300.090, 70A.20.050, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, section 12 of this act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within 30 days after the notice is received, the person incurring the penalty may apply in writing to the authority for the remission or mitigation of the penalty. Upon receipt of the application, the authority may remit or mitigate the penalty upon whatever terms the authority in its discretion deems proper. The authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the

hearings board and served on the department or authority 30 days after the date of receipt by the person penalized of the notice imposing the penalty or 30 days after the date of receipt of the notice of disposition by a local air authority of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

(a) ((~~Thirty~~))30 days after receipt of the notice imposing the penalty;

(b) ((~~Thirty~~))30 days after receipt of the notice of disposition by a local air authority on application for relief from penalty, if such an application is made; or

(c) ((~~Thirty~~))30 days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department within 30 days after it becomes due and payable, the attorney general, upon request of the department, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within 30 days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70A.15.3160, the disposition of which shall be governed by that provision, RCW 70A.245.040 and 70A.245.050, which shall be credited to the recycling enhancement account created in RCW 70A.245.100, RCW 70A.300.090 and section 12 of this act, which shall be credited to the model toxics control operating account created in RCW 70A.305.180, RCW 70A.65.200, which shall be credited to the climate investment account created in RCW 70A.65.250, RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 70A.355.070, which shall be credited to the underground storage tank account created by RCW 70A.355.090.

NEW SECTION. **Sec. 23.** A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to the receipts of a battery stewardship organization formed under chapter 70A.--- RCW (the new chapter created in section 24 of this act) from charges to participating producers under a battery stewardship program as provided in section 7 of this act.

(2) This section is not subject to the requirements of RCW 82.32.805 and 82.32.808 and is not subject to an expiration date.

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

NEW SECTION. **Sec. 24.** CODIFICATION. Sections 1 through 17, 19, and 20 of this act constitute a new chapter in Title 70A RCW.

NEW SECTION. **Sec. 25.** SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

Signed by Representatives Doglio, Chair; Mena, Vice Chair; Berry; Duerr; Fey; Lekanoff; Ramel; Slatter and Street.

MINORITY recommendation: Do not pass. Signed by Representatives Dye, Ranking Minority Member; Ybarra, Assistant Ranking Minority Member; Abbarno; Couture; and Goehner.

MINORITY recommendation: Without recommendation. Signed by Representative Barnard.

Referred to Committee on Appropriations

March 21, 2023

E2SSB 5236 Prime Sponsor, Ways & Means: Concerning hospital staffing standards. Reported by Committee on Labor & Workplace Standards

MAJORITY recommendation: Do pass. Signed by Representatives Berry, Chair; Fosse, Vice Chair; Robertson, Ranking Minority Member; Schmidt, Assistant Ranking Minority Member; Bronoske; Connors; Doglio; Ormsby and Ortiz-Self.

Referred to Committee on Appropriations

March 21, 2023

SB 5287 Prime Sponsor, Senator Wilson, J.: Concerning a study on the recycling of wind turbine blades. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) Subject to amounts appropriated for this specific purpose in the omnibus operating appropriations act, the Washington State University extension energy program must conduct a study on the feasibility of recycling wind turbine blades installed at facilities in Washington that generate electricity for distribution to customers in Washington, including information and recommendations on:

(a) The cost, feasibility, and environmental impact of various disposal methods for wind turbine blades including, but not limited to, options for reuse, repurposing, and recycling;

(b) The availability of wind turbine blade recycling and processing facilities in Washington and other states;

(c) Potential incentives for the creation of wind turbine blade recycling facilities within Washington;

(d) Various mechanisms for establishing recycling requirements, or recycled content standards, for wind turbine blades;

(e) Considerations and options for the design of a state-managed product stewardship program for wind turbine blades; and

(f) The feasibility of including all wind turbine blades installed in facilities in Washington in a recycling program, including blades that are currently installed.

(2) By December 1, 2023, the Washington State University extension energy program must submit a report of its findings under this section to the appropriate committees of the legislature.

(3) This section expires December 1, 2024."

Correct the title.

Signed by Representatives Doglio, Chair; Mena, Vice Chair; Dye, Ranking Minority Member; Ybarra, Assistant Ranking Minority Member; Abbarno; Barnard; Berry; Couture; Duerr; Fey; Goehner; Lekanoff; Ramel; Slatter and Street.

Referred to Committee on Rules for second reading

March 21, 2023

SB 5319 Prime Sponsor, Senator Stanford: Concerning pet insurance. Reported by Committee on Consumer Protection & Business

MAJORITY recommendation: Do pass. Signed by Representatives Walen, Chair; Reeves, Vice Chair; Corry, Ranking Minority Member; McClintock, Assistant Ranking Minority Member; Chapman; Cheney; Connors; Donaghy; Hackney; Ryu; Sandlin and Volz.

Referred to Committee on Rules for second reading

March 22, 2023

SB 5330 Prime Sponsor, Senator Torres: Concerning the Washington pesticide application act. Reported by Committee on Agriculture and Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Chapman, Chair; Morgan, Vice Chair; Reeves, Vice Chair; Dent, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Kloba; Lekanoff; Orcutt; Schmick and Springer.

Referred to Committee on Rules for second reading

March 21, 2023

ESB 5336 Prime Sponsor, Senator Cleveland: Concerning population criteria for the main street trust fund tax credit. Reported by Committee on Local Government

MAJORITY recommendation: Do pass. Signed by Representatives Duerr, Chair; Alvarado, Vice Chair; Goehner, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Berg; Griffey and Riccelli.

Referred to Committee on Finance

March 21, 2023

SB 5340 Prime Sponsor, Senator King: Regarding limits on the sale and possession of retail cannabis products. Reported by Committee on Regulated Substances & Gaming

MAJORITY recommendation: Do pass. Signed by Representatives Kloba, Co-Chair; Wylie, Co-Chair; Stearns, Vice Chair; Chambers, Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Cheney; Morgan; Reeves; Walsh and Waters.

Referred to Committee on Rules for second reading

March 21, 2023

SSB 5353 Prime Sponsor, Agriculture, Water, Natural Resources & Parks: Concerning the voluntary stewardship program. Reported by Committee on Local Government

MAJORITY recommendation: Do pass. Signed by Representatives Duerr, Chair; Alvarado, Vice Chair; Goehner, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Berg; Griffey and Riccelli.

Referred to Committee on Appropriations

March 20, 2023

E2SSB 5367 Prime Sponsor, Ways & Means: Concerning the regulation of products containing THC. Reported by Committee on Regulated Substances & Gaming

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 15.140.020 and 2022 c 16 s 19 are each amended to read as follows:

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

(1) "Agriculture improvement act of 2018" means sections 7605, 10113, 10114, and 12619 of the agriculture improvement act of 2018, P.L. 115-334.

(2) "Cannabis" has the meaning provided in RCW 69.50.101.

(3) "Crop" means hemp grown as an agricultural commodity.

(4) "Cultivar" means a variation of the plant *Cannabis sativa L.* that has been developed through cultivation by selective breeding.

(5) "Department" means the Washington state department of agriculture.

(6) "Food" has the same meaning as defined in RCW 69.07.010.

(7) "Hemp" means the plant *Cannabis sativa L.* and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.

(8) "Hemp consumable" means a product that is sold or provided to another person, that is:

(a) Made of hemp;

(b) Not a cannabis product, as defined in RCW 69.50.101; and

(c) Intended to be consumed or absorbed inside the body by any means, including inhalation, ingestion, or insertion.

(9) "Hemp processor" means a person who takes possession of raw hemp material with the intent to modify, package, or sell a transitional or finished hemp product.

((~~(9)~~))(10)(a) "Industrial hemp" means all parts and varieties of the genera *Cannabis*, cultivated or possessed by a grower, whether growing or not, that contain a tetrahydrocannabinol concentration of 0.3 percent or less by dry weight that was grown under the industrial hemp research program as it existed on December 31, 2019.

(b) "Industrial hemp" does not include plants of the genera *Cannabis* that meet the definition of "cannabis."

((~~(10)~~))(11) "Postharvest test" means a test of ((~~delta-9~~)) tetrahydrocannabinol concentration levels of hemp after being harvested based on:

(a) Ground whole plant samples without heat applied; or

(b) Other approved testing methods.

((~~(11)~~))(12) "Process" means the processing, compounding, or conversion of hemp into hemp commodities or products.

((~~(12)~~))(13) "Produce" or "production" means the planting, cultivation, growing, or harvesting of hemp including hemp seed.

Sec. 2. RCW 69.50.101 and 2022 c 16 s 51 are each reenacted and amended to read as follows:

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

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "Board" means the Washington state liquor and cannabis board.

(d) "Cannabis" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis((~~; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:~~

~~(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination; or~~

~~(2) Hemp or industrial hemp as defined in RCW 15.140.020,~~))during the growing cycle through harvest and usable cannabis. "Cannabis" does not include hemp or industrial hemp as defined in RCW 15.140.020, or seeds used for licensed hemp production under chapter 15.140 RCW.

(e) "Cannabis concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ten percent.

(f) "Cannabis processor" means a person licensed by the board to process cannabis into cannabis concentrates, useable cannabis, and cannabis-infused products, package and label cannabis concentrates, useable cannabis, and cannabis-infused products for sale in retail outlets, and sell cannabis concentrates, useable cannabis, and cannabis-infused products at wholesale to cannabis retailers.

(g) "Cannabis producer" means a person licensed by the board to produce and sell cannabis at wholesale to cannabis processors and other cannabis producers.

(h)(1) "Cannabis products" means useable cannabis, cannabis concentrates, and cannabis-infused products as defined in this section, including any product intended to be consumed or absorbed inside the body by any means including inhalation, ingestion, or insertion, with any detectable amount of THC.

(2) "Cannabis products" also means any product containing only THC content.

(3) "Cannabis products" does not include cannabis health and beauty aids as defined in RCW 69.50.575 or products approved by the United States food and drug administration.

(i) "Cannabis researcher" means a person licensed by the board to produce, process, and possess cannabis for the purposes of conducting research on cannabis and cannabis-derived drug products.

(j) "Cannabis retailer" means a person licensed by the board to sell cannabis concentrates, useable cannabis, and cannabis-infused products in a retail outlet.

(k) "Cannabis-infused products" means products that contain cannabis or cannabis extracts, are intended for human use, are derived from cannabis as defined in subsection (d) of this section, and have a THC concentration no greater than ten percent. The term "cannabis-infused products" does not include either useable cannabis or cannabis concentrates.

(l) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(m) "CBD product" means any product containing or consisting of cannabidiol.

(n) "Commission" means the pharmacy quality assurance commission.

(o) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules, but does not include hemp

or industrial hemp as defined in RCW 15.140.020.

(p)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal food, drug, and cosmetic act, 21 U.S.C. Sec. 355, or chapter 69.77 RCW to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(q) "Deliver" or "delivery" means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

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

(s) "Designated provider" has the meaning provided in RCW 69.51A.010.

(t) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(u) "Dispenser" means a practitioner who dispenses.

(v) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(w) "Distributor" means a person who distributes.

(x) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/ national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(y) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(z) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

(aa) "Immature plant or clone" means a plant or clone that has no flowers, is less than twelve inches in height, and is less than twelve inches in diameter.

(bb) "Immediate precursor" means a substance:

(1) that the commission has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;

(2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(cc) "Isomer" means an optical isomer, but in subsection (gg)(5) of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(dd) "Lot" means a definite quantity of cannabis, cannabis concentrates, useable cannabis, or cannabis-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(ee) "Lot number" must identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of cannabis, cannabis concentrates, useable cannabis, or cannabis-infused product.

(ff) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the

course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(gg) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in (1) through (7) of this subsection.

(hh) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(ii) "Opium poppy" means the plant of the species Papaver somniferum L., except its seeds.

(jj) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(kk) "Plant" has the meaning provided in RCW 69.51A.010.

(ll) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(mm) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(nn) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

(oo) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(pp) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

(qq) "Recognition card" has the meaning provided in RCW 69.51A.010.

(rr) "Retail outlet" means a location licensed by the board for the retail sale of cannabis concentrates, useable cannabis, and cannabis-infused products.

(ss) "Secretary" means the secretary of health or the secretary's designee.

(tt) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(uu) "THC concentration" means percent of ((~~delta-9~~)) tetrahydrocannabinol content ((~~per dry weight~~)) of any part of the plant

Cannabis, or per volume or weight of cannabis product, or the combined percent of ((~~delta-9~~)) tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

(vv) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

(ww) "Useable cannabis" means dried cannabis flowers. The term "useable cannabis" does not include either cannabis-infused products or cannabis concentrates.

(xx) "Youth access" means the level of interest persons under the age of twenty-one may have in a vapor product, as well as the degree to which the product is available or appealing to such persons, and the likelihood of initiation, use, or addiction by adolescents and young adults.

(yy) "Package" means a container that has a single unit or group of units.

(zz) "Unit" means an individual consumable item within a package of one or more consumable items in solid, liquid, gas, or any form intended for human consumption.

Sec. 3. RCW 69.50.326 and 2022 c 16 s 55 are each amended to read as follows:

(1) Licensed cannabis producers and licensed cannabis processors may use a CBD product as an additive for the purpose of enhancing the cannabidiol concentration of any product authorized for production, processing, and sale under this chapter. Except as otherwise provided in subsection (2) of this section, such CBD product additives must be lawfully produced by, or purchased from, a producer or processor licensed under this chapter.

(2) Subject to the requirements set forth in (a) ((~~and (b)~~))through (c) of this subsection, and for the purpose of enhancing the cannabidiol concentration of any product authorized for production, processing, or sale under this chapter, licensed cannabis producers and licensed cannabis processors may use a CBD product obtained from a source not licensed under this chapter, provided the CBD product:

(a) ((~~Has a THC level of 0.3 percent or less on a dry weight basis; and~~

~~(b)~~))Is not cannabis, or a cannabis product, as defined in this chapter;

(b) Is not a synthetic cannabinoid; and

(c) Has been tested for contaminants and toxins by a testing laboratory accredited under this chapter and in accordance with testing standards established under this chapter and the applicable administrative rules.

(3) Subject to the requirements of this subsection (3), the board may enact rules necessary to implement the requirements of this section. Such rule making is limited to regulations pertaining to laboratory testing and product safety standards for those cannabidiol products used by licensed producers and processors in the manufacture of cannabis products marketed by licensed retailers under this chapter. The purpose of such rule making must be to ensure the safety and purity of cannabidiol products used by cannabis producers and processors licensed under this chapter and incorporated into products sold by licensed recreational cannabis retailers. This rule-making authority does not include the authority to enact rules regarding either the production or processing practices of the industrial hemp industry or any cannabidiol products that are sold or marketed outside of the regulatory framework established under this chapter.

Sec. 4. RCW 69.50.346 and 2022 c 16 s 66 are each amended to read as follows:

(1) The label on a cannabis product ((~~container~~))package, including cannabis concentrates, useable cannabis, or cannabis-infused products, sold at retail must include:

(a) The business or trade name and Washington state unified business identifier number of the cannabis producer and processor;

(b) The lot numbers of the product;

(c) The THC concentration and CBD concentration of the product;

(d) Medically and scientifically accurate and reliable information about the health and safety risks posed by cannabis use;

(e) Language required by RCW 69.04.480; and

(f) A disclaimer, subject to the following conditions:

(i) Where there is one statement made under subsection (2) of this section, or as described in subsection (5)(b) of this section, the disclaimer must state "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."; and

(ii) Where there is more than one statement made under subsection (2) of this section, or as described in subsection (5)(b) of this section, the disclaimer must state "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(2)(a) For cannabis products that have been identified by the department in rules adopted under RCW 69.50.375(4) in chapter 246-70 WAC as being a compliant cannabis product, the product label and labeling may include a structure or function claim describing the intended role of a product to maintain the structure or any function of the body, or characterize the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(b) A statement made under (a) of this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(3) The labels and labeling may not be:

(a) False or misleading; or

(b) Especially appealing to children.

(4) The label is not required to include the business or trade name or Washington state unified business identifier number of,

or any information about, the cannabis retailer selling the cannabis product.

(5) A cannabis product is not in violation of any Washington state law or rule of the board solely because its label or labeling contains:

(a) Directions or recommended conditions of use; or

(b) A warning describing the psychoactive effects of the cannabis product, provided that the warning is truthful and not misleading.

(6) This section does not create any civil liability on the part of the state, the board, any other state agency, officer, employee, or agent based on a cannabis licensee's description of a structure or function claim or the product's intended role under subsection (2) of this section.

(7) Nothing in this section shall apply to a drug, as defined in RCW 69.50.101, or a pharmaceutical product approved by the United States food and drug administration.

NEW SECTION. **Sec. 5.** A new section is added to chapter 69.50 RCW to read as follows:

(1) Except as otherwise provided in this chapter, no person may manufacture, sell, or distribute cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products, or any cannabis products without a valid license issued by the board or commission.

(2) Any person performing any act requiring a license under this title, without having in force an appropriate and valid license issued to the person, is in violation of this chapter.

(3) The producing, processing, manufacturing, or sale of any synthetically derived, or completely synthetic, cannabinoid is prohibited, except for products approved by the United States food and drug administration.

NEW SECTION. **Sec. 6.** Nothing in this act shall be construed to require any agency to purchase a liquid chromatography-mass spectrometry instrument.

NEW SECTION. **Sec. 7.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

Signed by Representatives Kloba, Co-Chair; Wylie, Co-Chair; Stearns, Vice Chair; Chambers, Ranking Minority Member; Robertson, Assistant Ranking Minority Member; Cheney; Orwall; Reeves and Waters.

MINORITY recommendation: Without recommendation. Signed by Representatives Morgan; and Walsh.

Referred to Committee on Appropriations

March 22, 2023

SSB 5374 Prime Sponsor, Local Government, Land Use & Tribal Affairs: Concerning the adoption of county critical area ordinances by cities. Reported by Committee on Local Government

MAJORITY recommendation: Do pass. Signed by Representatives Duerr, Chair; Alvarado, Vice Chair; Goehner, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Berg; Griffey and Riccelli.

Referred to Committee on Rules for second reading

March 22, 2023

SB 5390 Prime Sponsor, Senator Shewmake: Establishing a programmatic safe harbor agreement on forestlands. Reported by Committee on Agriculture and Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Chapman, Chair; Morgan, Vice Chair; Reeves, Vice Chair; Dent, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Kloba; Lekanoff; Orcutt; Schmick and Springer.

Referred to Committee on Appropriations

March 22, 2023

SSB 5433 Prime Sponsor, Agriculture, Water, Natural Resources & Parks: Concerning the removal of derelict aquatic structures and restoration of aquatic lands. Reported by Committee on Agriculture and Natural Resources

MAJORITY recommendation: Do pass. Signed by Representatives Chapman, Chair; Morgan, Vice Chair; Reeves, Vice Chair; Dent, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Kloba; Lekanoff; Orcutt; Schmick and Springer.

Referred to Committee on Capital Budget

March 21, 2023

ESSB 5447 Prime Sponsor, Environment, Energy & Technology: Promoting the alternative jet fuel industry in Washington. Reported by Committee on Environment & Energy

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

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

PART I

TREATMENT OF ALTERNATIVE JET FUELS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) This section expires January 1, 2029.

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

(1) The statewide office of renewable fuels is established within the department. The office shall report to the director of the department. The office may employ staff

as necessary to carry out the office's duties as prescribed by chapter 292, Laws of 2022, subject to the availability of amounts appropriated for this specific purpose.

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

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

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

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

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

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

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

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

(1) The office shall:

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

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

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

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

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

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

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

(2) The office may take all appropriate steps to seek and apply for federal funds for which the office is eligible, and other grants, and accept donations, and must deposit these funds in the renewable fuels accelerator account created in RCW 43.330.575.

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

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

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

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

(2) To facilitate the calculation required in subsection (1) of this section, an international airport owned by a port district in a county with a population greater than 1,500,000 must report to the

University of Washington the total annual volume of conventional and alternative jet fuel used for flights departing the airport by July 1, 2024, and July 1st of each year until such time as the joint legislative audit and review committee has completed its final report on the tax preferences contained in sections 9 through 12 of this act.

PART II
ALTERNATIVE JET FUEL TAX INCENTIVES

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

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

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

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

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

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

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

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

(6) In order to obtain the data necessary to perform the review in subsection (4) of this section, the joint legislative audit and review committee may access and use data from an international airport owned by a port district in a county with a population greater than 1,500,000, the University of Washington, reports compiled by the Washington State University pursuant to section 7 of this act, and any other data collected by the state as it deems necessary.

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

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

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

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

(3) For the purposes of this section, "alternative jet fuel" has the same meaning as in RCW 70A.535.010.

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

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

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

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

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

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

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

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

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

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

(e) The credit under this section is calculated only on the portion of jet fuel

that is considered alternative jet fuel and does not include conventional jet fuel when such fuels are blended or otherwise used in a jet fuel mixture.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9)(a) Credits may be earned beginning on the first day of the first calendar quarter following the month in which notice under

subsection (1)(e) of this section was received by the department.

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

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

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

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

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

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

Correct the title.

Signed by Representatives Doglio, Chair; Mena, Vice Chair; Dye, Ranking Minority Member; Ybarra, Assistant Ranking Minority Member; Abbarno; Barnard; Berry; Couture; Duerr; Fey; Goehner; Lekanoff; Ramel; Slatter and Street.

Referred to Committee on Finance

March 21, 2023

SB 5452 Prime Sponsor, Senator Shewmake: Authorizing impact fee revenue to fund improvements to bicycle and pedestrian facilities. Reported by Committee on Local Government

MAJORITY recommendation: Do pass. Signed by Representatives Duerr, Chair; Alvarado, Vice Chair; Berg and Riccelli.

MINORITY recommendation: Do not pass. Signed by Representatives Goehner, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; and Griffey.

Referred to Committee on Rules for second reading

March 22, 2023

SB 5553 Prime Sponsor, Senator Lovelett: Authorizing standards for temporary emergency shelters for local adoption. Reported by Committee on Local Government

MAJORITY recommendation: Do pass. Signed by Representatives Duerr, Chair; Alvarado, Vice Chair; Goehner, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Berg; Griffey and Riccelli.

Referred to Committee on Rules for second reading

March 21, 2023

SSB 5600 Prime Sponsor, Environment, Energy & Technology: Extending the expiration date for the state universal communications services program. Reported by Committee on Innovation, Community & Economic Development, & Veterans

MAJORITY recommendation: Do pass as amended.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 80.36.630 and 2019 c 365 s 11 are each amended to read as follows:

(1) The definitions in this section apply throughout this section and RCW 80.36.650 through 80.36.690 and 80.36.610 unless the context clearly requires otherwise.

(a) "Basic residential service" means those services set out in 47 C.F.R. Sec. 54.101(a) (2011), as it existed on May 13, 2019, and mandatory extended area service approved by the commission.

(b) "Basic telecommunications services" means the following services:

(i) Single-party service;

(ii) Voice grade access to the public switched network;

(iii) Support for local usage;

(iv) Dual tone multifrequency signaling (touch-tone);

(v) Access to emergency services (911);

(vi) Access to operator services;

(vii) Access to interexchange services;

(viii) Access to directory assistance; and

(ix) Toll limitation services.

(c) "Broadband service" means any service providing advanced telecommunications capability, including internet access and access to high quality voice, data, graphics, or video.

(d) "Communications provider" means a provider of communications services that assigns a working telephone number to a final consumer for intrastate wireline or wireless communications services or interconnected voice over internet protocol service, and includes local exchange carriers.

(e) "Communications services" includes telecommunications services and information services and any combination thereof.

(f) "Incumbent local exchange carrier" has the same meaning as set forth in 47 U.S.C. Sec. 251(h).

(g) "Incumbent public network" means the network established by incumbent local exchange carriers for the delivery of communications services to customers that is used by communications providers for origination or termination of communications services by or to customers.

(h) "Interconnected voice over internet protocol service" means an interconnected voice over internet protocol service that: (i) Enables real-time, two-way voice communications; (ii) requires a broadband connection from the user's location; (iii) requires internet protocol-compatible customer premises equipment; and (iv) permits users generally to receive calls

that originate on the public network and to terminate calls to the public network.

(i) "Program" means the state universal communications services program created in RCW 80.36.650.

(j) "Telecommunications" has the same meaning as defined in 47 U.S.C. Sec. 153(43).

(k) "Telecommunications act of 1996" means the telecommunications act of 1996 (P.L. 104-104, 110 Stat. 56).

(2) This section expires July 1, ((~~2025~~))2035.

Sec. 2. RCW 80.36.650 and 2019 c 365 s 12 are each amended to read as follows:

(1) A state universal communications services program is established. The program is established to protect public safety and welfare under the authority of the state to regulate telecommunications under Article XII, section 19 of the state Constitution. The purpose of the program is to support continued provision of basic telecommunications services under rates, terms, and conditions established by the commission and the provision, enhancement, and maintenance of broadband services, recognizing that, historically, the incumbent public network functions to provide all communications services including, but not limited to, voice and broadband services.

(2) Under the program, eligible communications providers may receive distributions from the universal communications services account created in RCW 80.36.690 in exchange for the affirmative agreement to provide continued telecommunications services under the rates, terms, and conditions established by the commission under this chapter, and broadband services, for the period covered by the distribution. The commission must implement and administer the program under terms and conditions established in RCW 80.36.630 through 80.36.690. Expenditures for the program may not exceed ((~~five million dollars~~))$5,000,000 per fiscal year; provided, however, that if less than ((~~five million dollars~~))$5,000,000 is expended in any fiscal year, the unexpended portion must be carried over to subsequent fiscal years and, unless fully expended, must be available for program expenditures in such subsequent fiscal years in addition to the ((~~five million dollars~~))$5,000,000 allotted for each of those subsequent fiscal years.

(3) A communications provider is eligible to receive distributions from the account if:

(a)(i) The communications provider is: (A) An incumbent local exchange carrier serving fewer than ((~~forty thousand~~))40,000 access lines in the state; or (B) a radio communications service company providing wireless two-way voice communications service and broadband services to less than the equivalent of ((~~forty thousand~~))40,000 access lines in the state. For purposes of determining the access line threshold in this subsection, the access lines or equivalents of all wireline affiliates must be counted as a single threshold, if the lines or equivalents are located in Washington;

(ii) The communications provider has adopted a plan to provide, enhance, ((~~or~~))and maintain broadband services in its service area; and

(iii) The communications provider meets any other requirements established by the commission pertaining to the provision of communications services, including basic telecommunications services; or

(b) The communications provider demonstrates to the commission that the communications provider is able to provide the same or comparable services at the same or similar service quality standards at a lower price; and: (i) Will provide communications services to all customers in the exchange or exchanges in which it will provide service; and (ii) submits to the commission's regulation of its service as if it were the incumbent local exchange company serving the exchange or exchanges for which it seeks distribution from the account.

(4)(a) Distributions to eligible communications providers are based on criteria established by the commission.

(b) If the program does not have sufficient funds to fully fund the distribution formula set out in (a) of this subsection, distributions must be reduced on a pro rata basis using the amounts calculated for that year's program support as the basis of the pro rata calculations.

(c) To receive a distribution under the program, an eligible communications provider must affirmatively consent to continue providing communications services to its customers under rates, terms, and conditions established by the commission pursuant to this chapter for the period covered by the distribution.

(5) The program is funded from amounts deposited by the legislature in the universal communications services account established in RCW 80.36.690. The commission must operate the program within amounts appropriated for this purpose and deposited in the account.

(6) The commission must periodically review the accounts and records of any communications provider that receives distributions under the program to ensure compliance with the program and monitor the providers' use of the funds.

(7) The commission must establish an advisory board, consisting of a reasonable balance of representatives from different types of stakeholders, including but not limited to communications providers and consumers, to advise the commission on any rules and policies governing the operation of the program.

(8) The program terminates on June 30, ((~~2024~~))2034, and no distributions may be made after that date.

(9) This section expires July 1, ((~~2025~~))2035.

Sec. 3. RCW 80.36.660 and 2019 c 365 s 13 are each amended to read as follows:

(1) To implement the program, the commission must adopt rules for the following purposes and review them no less than every five years:

(a) Operation of the program, including criteria for: Eligibility for distributions; use of the funds; identification of any reports or data that must be filed with the commission, including, but not limited to, how a communication provider used the distributed funds; and the communications provider's infrastructure;

(b) Operation of the universal communications services account established in RCW 80.36.690;

(c) Establishment of the criteria used to calculate distributions; and

(d) Readoption, amendment, or repeal of any existing rules adopted pursuant to RCW 80.36.610 as necessary to be consistent with RCW 80.36.630 through 80.36.690 and 80.36.610.

(2) This section expires July 1, ((~~2025~~))2035.

Sec. 4. RCW 80.36.670 and 2019 c 365 s 14 are each amended to read as follows:

(1) In addition to any other penalties prescribed by law, the commission may impose penalties for failure to make or delays in making or filing any reports required by the commission for administration of the program. In addition, the commission may recover amounts determined to have been improperly distributed under RCW 80.36.650. For the purposes of this section, the provisions of RCW 80.04.380 through 80.04.405, inclusive, apply to all companies that receive support from the universal communications services account created in RCW 80.36.690.

(2) Any action taken under this section must be taken only after providing the affected communications provider with notice and an opportunity for a hearing, unless otherwise provided by law.

(3) Any amounts recovered under this section must be deposited in the universal communications services account created in RCW 80.36.690.

(4) This section expires July 1, ((~~2025~~))2035.

Sec. 5. RCW 80.36.680 and 2019 c 365 s 15 are each amended to read as follows:

(1) The commission may delegate to the commission secretary or other staff the authority to resolve disputes and make other administrative decisions necessary to the administration and supervision of the program consistent with the relevant statutes and commission rules.

(2) This section expires July 1, ((~~2025~~))2035.

Sec. 6. RCW 80.36.690 and 2019 c 365 s 16 are each amended to read as follows:

(1) The universal communications services account is created in the custody of the state treasurer. Revenues to the account consist of moneys deposited in the account by the legislature and any penalties or other recoveries received pursuant to RCW 80.36.670. Expenditures from the account may be used only for the purposes of the universal communications services program established in RCW 80.36.650 and commission expenses related to implementation and administration of the provisions of RCW 80.36.630 through 80.36.690 and section 212, chapter 8, Laws of 2013 2nd sp. sess. Only the secretary of the commission or the secretary's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) This section expires July 1, ((~~2025~~))2035.

Sec. 7. RCW 80.36.700 and 2019 c 365 s 17 are each amended to read as follows:

(1) The universal communications services program established in RCW 80.36.630 through 80.36.690 terminates on June 30, ((~~2024~~))2034.

(2) This section expires July 1, ((~~2025~~))2035."

Correct the title.

Signed by Representatives Ryu, Chair; Donaghy, Vice Chair; Rule, Vice Chair; Volz, Ranking Minority Member; Barnard, Assistant Ranking Minority Member; Chambers; Christian; Corry; Cortes; Paul; Senn; Shavers; Street; Waters and Ybarra.

Referred to Committee on Appropriations

March 22, 2023

SSB 5604 Prime Sponsor, Local Government, Land Use & Tribal Affairs: Concerning county sales and use taxes for mental health and housing. Reported by Committee on Local Government

MAJORITY recommendation: Do pass. Signed by Representatives Duerr, Chair; Alvarado, Vice Chair; Goehner, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Berg; Griffey and Riccelli.

Referred to Committee on Finance

March 22, 2023

SSB 5627 Prime Sponsor, Local Government, Land Use & Tribal Affairs: Concerning salaries for county commissioners and councilmembers. Reported by Committee on Local Government

MAJORITY recommendation: Do pass. Signed by Representatives Duerr, Chair; Alvarado, Vice Chair; Goehner, Ranking Minority Member; Jacobsen, Assistant Ranking Minority Member; Berg; Griffey and Riccelli.

Referred to Committee on Rules for second reading

There being no objection, the bills listed on the day's committee reports under the fifth order of business were referred to the committees so designated.

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

SECOND READING

ENGROSSED SENATE BILL NO. 5623, by Senators Dhingra, Conway, Hasegawa, Kuderer, Liias, Lovelett, Nobles, Pedersen, Stanford and Wilson, C.

Modifying an element of the offense of hate crime and classifying a hate crime as crimes against persons.

The bill was read the second time.

Representative Graham moved the adoption of amendment (495):

On page 1, line 11, after "identity," insert "employment as a general authority, limited authority, or specially commissioned Washington peace officer as defined under RCW 10.93.020,"

On page 2, line 3, after "identity," insert "or the same employment as a general authority, limited authority, or specially commissioned Washington peace officer as defined under RCW 10.93.020,"

On page 2, line 15, after "identity," insert "employment as a general authority, limited authority, or specially commissioned Washington peace officer as defined under RCW 10.93.020,"

On page 3, line 4, after "identity," insert "was employed as a general authority, limited authority, or specially commissioned Washington peace officer as defined under RCW 10.93.020,"

POINT OF ORDER

Representative Stonier requested a scope and object ruling on amendment (495) to ENGROSSED SENATE BILL NO. 5623.

SPEAKER'S RULING

"The title of the bill is an act relating to modifying an element of the offense of hate crime and classifying a hate crime as a crime against persons.

Current law provides that a person is guilty of a hate crime offense if they maliciously and intentionally commit certain acts based on the perpetrator's perception of a victim's race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, or mental, physical, or sensory disability.

Engrossed Senate Bill 5623 provides that a person is guilty of a hate crime if they assault rather than physically injure a victim. The bill also permits a judge or jury to infer that a person intended to threaten a victim because of their perception of the victim's Jewish heritage by committing specific acts and reclassifies hate crime offenses as crimes against persons.

Amendment (495) expands the bill by extending hate crime offenses to acts committed by a perpetrator based on their perception of a victim's employment as a Washington peace officer. The amendment does not address the manner in which a perpetrator harms a victim, an inference drawn by a trier of fact based on a perpetrator's conduct, or the classification of hate crime offenses. The effect of the amendment is to create a new category of victims.

The Speaker therefore finds and rules that the amendment is beyond the scope and object of the bill.

The point of order is well taken."

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Goodman, Mosbrucker and Barnard spoke in favor of the passage of the bill.

Representatives Graham, McEntire and Jacobsen spoke against the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Engrossed Senate Bill No. 5623.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5623, and the bill passed the House by the following vote: Yeas, 89; Nays, 9; Absent, 0; Excused, 0

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chapman, Cheney, Chopp, Connors, Corry, Cortes, Couture, Davis, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Klicker, Kloba, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Voting Nay: Representatives Chandler, Christian, Dent, Graham, Jacobsen, Kretz, McEntire, Schmidt and Walsh

ENGROSSED SENATE BILL NO. 5623, having received the necessary constitutional majority, was declared passed.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5198, by Senate Committee on Ways & Means (originally sponsored by Frame, Kuderer, Hasegawa, Hunt, Keiser, Lovelett, Nobles, Valdez and Wilson, C.)

Concerning the sale or lease of manufactured/mobile home communities and the property on which they sit.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

Representatives Gregerson, Klicker and Duerr spoke in favor of the passage of the bill.

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Engrossed Second Substitute Senate Bill No. 5198.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5198, and the bill passed the House by the following vote: Yeas, 95; Nays, 3; Absent, 0; Excused, 0

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

Voting Nay: Representatives Chandler, Couture and Rude

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5198, having received the necessary constitutional majority, was declared passed.

SUBSTITUTE SENATE BILL NO. 5569, by Senate Committee on Health & Long Term Care (originally sponsored by Rivers and Dozier)

Creating exemptions from certificate of need requirements for kidney disease centers.

The bill was read the second time.

There being no objection, the rules were suspended, the second reading considered the third and the bill was placed on final passage.

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

The Speaker (Representative Bronoske presiding) stated the question before the House to be the final passage of Substitute Senate Bill No. 5569.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5569, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

SUBSTITUTE SENATE BILL NO. 5569, having received the necessary constitutional majority, was declared passed.

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

MESSAGE FROM THE SENATE

February 1, 2023

Mme. SPEAKER:

The Senate reconsidered the following measures and, pursuant to Article 3, Section 12 of the State Constitution, passed the measure over the Governor's objection:

ENGROSSED SENATE BILL 5017 (2021)
SUBSTITUTE SENATE BILL 5810 (2022)

and the same are herewith transmitted.

Colleen Rust, Deputy Secretary

FINAL PASSAGE OF SUBSTITUTE SENATE BILL NO. 5810 GOVERNOR'S VETO NOTWITHSTANDING

Representatives Walen and Corry spoke in favor of the passage of the bill, notwithstanding the Governor's veto.

The Speaker (Representative Bronoske presiding) stated the question before the House to be final passage of Substitute Senate Bill No. 5810, notwithstanding the Governor's veto.

ROLL CALL

The Clerk called the roll on the final passage of Substitute Senate Bill No. 5810, notwithstanding the Governor's veto, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

SUBSTITUTE SENATE BILL NO. 5810, notwithstanding the Governor's veto, having received the two-thirds constitutional majority, was declared passed.

FINAL PASSAGE OF ENGROSSED SENATE BILL 5017 GOVERNOR'S VETO NOTWITHSTANDING

Representatives Tharinger and Steel spoke in favor of the passage of the bill, notwithstanding the Governor's veto.

The Speaker (Representative Bronoske presiding) stated the question before the House to be final passage of Substitute Senate Bill No. 5017, notwithstanding the Governor's veto.

ROLL CALL

The Clerk called the roll on the final passage of Engrossed Senate Bill No. 5017, notwithstanding the Governor's veto, and the bill passed the House by the following vote: Yeas, 98; Nays, 0; Absent, 0; Excused, 0

Voting Yea: Representatives Abbarno, Alvarado, Barkis, Barnard, Bateman, Berg, Bergquist, Berry, Bronoske, Caldier, Callan, Chambers, Chandler, Chapman, Cheney, Chopp, Christian, Connors, Corry, Cortes, Couture, Davis, Dent, Doglio, Donaghy, Duerr, Dye, Entenman, Eslick, Farivar, Fey, Fitzgibbon, Fosse, Goehner, Goodman, Graham, Gregerson, Griffey, Hackney, Hansen, Harris, Hutchins, Jacobsen, Klicker, Kloba, Kretz, Leavitt, Lekanoff, Low, Macri, Maycumber, McClintock, McEntire, Mena, Morgan, Mosbrucker, Orcutt, Ormsby, Ortiz-Self, Orwall, Paul, Peterson, Pollet, Ramel, Ramos, Reed, Reeves, Riccelli, Robertson, Rude, Rule, Ryu, Sandlin, Santos, Schmick, Schmidt, Senn, Shavers, Simmons, Slatter, Springer, Stearns, Steele, Stokesbary, Stonier, Street, Taylor, Thai, Tharinger, Timmons, Volz, Walen, Walsh, Waters, Wilcox, Wylie, Ybarra and Mme. Speaker

ENGROSSED SENATE BILL NO. 5017, notwithstanding the Governor's veto, having received the two-thirds constitutional majority, was declared passed.

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

MOTIONS

There being no objection, the Committee on Rules was relieved of the following bills and the bills were placed on the second reading calendar:

HOUSE BILL NO. 1847
SUBSTITUTE SENATE BILL NO. 5006
SUBSTITUTE SENATE BILL NO. 5028
SENATE BILL NO. 5041
ENGROSSED SUBSTITUTE SENATE BILL NO. 5143
SENATE BILL NO. 5192
ENGROSSED SUBSTITUTE SENATE BILL NO. 5272
SENATE BILL NO. 5295
SUBSTITUTE SENATE BILL NO. 5317
SENATE BILL NO. 5319
SENATE BILL NO. 5342
SUBSTITUTE SENATE BILL NO. 5439
SENATE BILL NO. 5553
SUBSTITUTE SENATE BILL NO. 5565
SUBSTITUTE SENATE BILL NO. 5627

There being no objection, the Committee on Rules was relieved of the following bill and the bill was placed on the suspension calendar:

SENATE BILL NO. 5370

There being no objection, the House adjourned until 1:30 p.m., Friday, March 24, 2023, the 75th Day of the 2023 Regular Session.

LAURIE JINKINS, Speaker

BERNARD DEAN, Chief Clerk