

FORTY SIXTH DAY

MORNING SESSION

Senate Chamber, Olympia
Thursday, February 25, 2021

The Senate was called to order at 10:01 a.m. by the President of the Senate, Lt. Governor Heck presiding. The Secretary called the roll and announced to the President that all Senators were present.

The Washington State Patrol Honor Guard presented the Colors.

Miss Lydia Haindfield led the Senate in the Pledge of Allegiance. Miss Haindfield, a student at Western Washington University, is the intern for Senator Mullet.

The prayer was offered by Senator Braun of the 20th Legislative District, Centralia.

MOTIONS

On motion of Senator Liias, the reading of the Journal of the previous day was dispensed with and it was approved.

On motion of Senator Liias, the Senate advanced to the fourth order of business.

MESSAGE FROM THE HOUSE

February 24, 2021

MR. PRESIDENT:

The House has passed:

- SECOND SUBSTITUTE HOUSE BILL NO. 1028,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1068,
- HOUSE BILL NO. 1096,
- SUBSTITUTE HOUSE BILL NO. 1129,
- HOUSE BILL NO. 1143,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1176,
- ENGROSSED SUBSTITUTE HOUSE BILL NO. 1196,
- SUBSTITUTE HOUSE BILL NO. 1294,
- SUBSTITUTE HOUSE BILL NO. 1309,
- SUBSTITUTE HOUSE BILL NO. 1331,
- SUBSTITUTE HOUSE BILL NO. 1383,
- SUBSTITUTE HOUSE BILL NO. 1455,
- SUBSTITUTE HOUSE BILL NO. 1492,
- SUBSTITUTE HOUSE BILL NO. 1493,

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

On motion of Senator Liias, the Senate advanced to the fifth order of business.

INTRODUCTION AND FIRST READING

HB 1009 by Representatives Thai, Slatter, Wicks, Ortiz-Self, Kloba, Lekanoff, Bateman, J. Johnson, Ryu, Senn, Gregerson, Valdez, Cody, Riccelli, Frame, Santos, Macri and Pollet

AN ACT Relating to student health plans; and amending RCW 48.43.073.

Referred to Committee on Health & Long Term Care.

E2SHB 1050 by House Committee on Appropriations (originally sponsored by Fitzgibbon, Ortiz-Self, Leavitt, Duerr, Chopp, Ramel, Peterson, Goodman, Ryu, Callan, Ramos, Ormsby, Pollet, Stonier, Fey, Macri and Bergquist)

AN ACT Relating to reducing greenhouse gas emissions from fluorinated gases; amending RCW 70A.15.6410, 70A.15.6420, 70A.15.6430, 70A.45.080, 19.27.580, 70A.15.1010, 70A.15.3150, 70A.15.3160, 19.285.040, 19.27A.220, and 39.26.310; reenacting and amending RCW 70A.45.010; adding a new chapter to Title 70A RCW; creating new sections; recodifying RCW 70A.45.080, 70A.15.6410, 70A.15.6420, and 70A.15.6430; and providing an effective date.

Referred to Committee on Environment, Energy & Technology.

EHB 1090 by Representatives Ortiz-Self, Fey, Fitzgibbon, J. Johnson, Ramos, Tharinger, Simmons, Ramel, Senn, Peterson, Gregerson, Ryu, Valdez, Callan, Kloba, Young, Hackney, Chopp, Lovick, Ormsby, Stonier, Frame, Santos, Macri, Orwall, Davis, Pollet and Harris-Talley

AN ACT Relating to private, for-profit detention facilities; adding a new chapter to Title 70 RCW; creating a new section; and declaring an emergency.

Referred to Committee on Human Services, Reentry & Rehabilitation.

SHB 1193 by House Committee on Environment & Energy (originally sponsored by Hoff)

AN ACT Relating to affirming the process for disposing of dredged materials for federal navigation channel maintenance and improvement; and amending RCW 90.58.355.

Referred to Committee on Environment, Energy & Technology.

SHB 1206 by House Committee on Labor & Workplace Standards (originally sponsored by Berry, Bronoske, Ramos, Fitzgibbon, Davis, Lovick, Thai, Ortiz-Self, Ormsby, Simmons, Chopp, Callan, Valdez, Macri and Harris-Talley)

AN ACT Relating to protecting temporary workers; and adding a new section to chapter 49.17 RCW.

Referred to Committee on Labor, Commerce & Tribal Affairs.

SHB 1218 by House Committee on Health Care & Wellness (originally sponsored by Bateman, Simmons, Sells, Lekanoff, Peterson, Stonier, Davis, Taylor, Dolan, Orwall, Cody, Santos, Ortiz-Self, Fitzgibbon, Slatter, Bronoske, Callan, Valdez, Ramel, Riccelli, Macri, Goodman and Harris-Talley)

AN ACT Relating to improving the health, safety, and quality of life for residents in long-term care facilities through emergency preparedness, improvements in

communications, resident information, and notice of sanctions; amending RCW 18.51.009, 18.51.260, 74.42.420, 74.42.460, 70.129.020, 70.129.030, 70.129.040, 70.129.080, 70.129.090, 70.129.110, 70.129.150, and 70.129.180; reenacting and amending RCW 70.129.010; adding new sections to chapter 18.20 RCW; adding new sections to chapter 18.51 RCW; adding new sections to chapter 70.97 RCW; adding new sections to chapter 70.128 RCW; adding new sections to chapter 70.129 RCW; and creating a new section.

Referred to Committee on Health & Long Term Care.

SHB 1221 by House Committee on Children, Youth & Families (originally sponsored by Rule, Bateman, Shewmake, Lekanoff, Senn, Santos, Thai, Ortiz-Self, Ormsby, Callan, Ramel, Riccelli and Macri)

AN ACT Relating to standardizing definitions of homelessness to improve access to services; and amending RCW 43.216.505, 13.34.030, 26.44.020, 13.34.065, and 13.34.138.

Referred to Committee on Human Services, Reentry & Rehabilitation.

EHB 1251 by Representatives Orcutt, Dent, Eslick and Robertson

AN ACT Relating to the authorization of wheeled all-terrain vehicles on state highways; and amending RCW 46.09.455.

Referred to Committee on Transportation.

SHB 1276 by House Committee on Health Care & Wellness (originally sponsored by Bronoske, Lovick, Fitzgibbon, Cody, Hackney, Fey, Macri, Leavitt, Ormsby, Harris-Talley and Stonier)

AN ACT Relating to providing for certain emergency medical services personnel to work in diversion centers; and amending RCW 18.73.030 and 18.73.130.

Referred to Committee on Health & Long Term Care.

SHB 1302 by House Committee on Education (originally sponsored by Berg, Ybarra, J. Johnson, Sutherland, Eslick, Morgan, Bergquist, Paul and Callan)

AN ACT Relating to college in the high school programs; amending RCW 28A.600.290, 28A.300.560, 28A.320.196, 28B.10.035, 28B.76.730, and 28B.95.020; and adding a new section to chapter 28A.600 RCW.

Referred to Committee on Early Learning & K-12 Education.

SHB 1323 by House Committee on Health Care & Wellness (originally sponsored by Tharinger, Macri, Simmons, Fitzgibbon, Cody, Hackney, Santos, Ortiz-Self, Lekanoff and Pollet)

AN ACT Relating to the long-term services and supports trust program; amending RCW 50B.04.010, 50B.04.020, 50B.04.050, 50B.04.085, and 50B.04.090; and adding a new section to chapter 50B.04 RCW.

Referred to Committee on Health & Long Term Care.

ESHB 1336 by House Committee on Community & Economic Development (originally sponsored by Hansen, Ybarra,

Berry, Simmons, Ramel, Valdez, Leavitt, Morgan, Ryu, Peterson, Shewmake, Davis, Ormsby, Gilday, Stonier, Eslick, Pollet and Harris-Talley)

AN ACT Relating to creating and expanding unrestricted authority for public entities to provide telecommunications services to end users; amending RCW 54.16.005, 54.16.330, 54.16.425, 53.08.005, and 53.08.370; adding a new section to chapter 54.16 RCW; adding a new section to chapter 35.27 RCW; adding a new section to chapter 35.23 RCW; adding a new section to chapter 36.01 RCW; adding a new section to chapter 53.08 RCW; creating new sections; and repealing RCW 54.16.420.

Referred to Committee on Environment, Energy & Technology.

SHB 1356 by House Committee on Education (originally sponsored by Lekanoff, Dolan, Davis, Ramos, Fitzgibbon, Callan, Simmons, Lovick, Berg, Ormsby, Bateman, Bergquist, Goodman, Macri, Ramel, Harris-Talley and Pollet)

AN ACT Relating to prohibiting the inappropriate use of Native American names, symbols, or images as public school mascots, logos, or team names; adding a new section to chapter 28A.320 RCW; and creating a new section.

Referred to Committee on Early Learning & K-12 Education.

HB 1378 by Representatives Ybarra, Cody and Dolan

AN ACT Relating to the supervision of medical assistants; amending RCW 18.360.010; reenacting and amending RCW 18.360.010; providing an effective date; providing an expiration date; and declaring an emergency.

Referred to Committee on Health & Long Term Care.

HB 1469 by Representatives Wicks, Vick, Robertson, Sutherland and Chambers

AN ACT Relating to enhanced raffle procedures; and amending RCW 9.46.0323.

Referred to Committee on Labor, Commerce & Tribal Affairs.

HB 1478 by Representatives Shewmake, Ortiz-Self, Fitzgibbon, Rule, Lekanoff and Pollet

AN ACT Relating to fish habitat enhancement projects authorized pursuant to RCW 77.55.181; and amending RCW 77.55.181.

Referred to Committee on Agriculture, Water, Natural Resources & Parks.

MOTIONS

On motion of Senator Liias, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

At 10:07 a.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

The Senate was called to order at 11:00 a.m. by President Heck.

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MOTION

On motion of Senator Liias, the Senate advanced to the sixth order of business.

SECOND READING

SENATE BILL NO. 5068, by Senators Randall, Rivers, Billig, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, Muzzall, Nguyen, Nobles, Saldaña, Salomon, Stanford, Warnick, and Wilson, C.

Improving maternal health outcomes by extending coverage during the postpartum period.

MOTIONS

On motion of Senator Randall, Substitute Senate Bill No. 5068 was substituted for Senate Bill No. 5068 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Randall, the rules were suspended, Substitute Senate Bill No. 5068 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Randall, Muzzall, Short, Lovelett, Wagoner, Nobles, Cleveland and Braun spoke in favor of passage of the bill.

MOTION

On motion of Senator Wagoner, Senators Ericksen, Rivers, Schoesler and Sheldon were excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5068.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5068 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senators Ericksen, Rivers and Sheldon

SUBSTITUTE SENATE BILL NO. 5068, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5151, by Senators Wilson, C., Das, Kuderer, Nobles and Saldaña

Concerning foster care and child care licensing by the department of children, youth, and families.

MOTION

On motion of Senator Wilson, C., Substitute Senate Bill No. 5151 was substituted for Senate Bill No. 5151 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Hawkins moved that the following floor amendment no. 134 by Senator Hawkins be adopted:

Beginning on page 61, line 16, strike all of section 30

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 1, line 7 of the title, after "43.216.700," strike all material through "74.15.125" and insert "and 43.216.300"

Senators Hawkins, Short, Braun and Padden spoke in favor of adoption of the amendment.

Senators Wellman, Saldaña and Darneille spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 134 by Senator Hawkins on page 61, line 16 to Substitute Senate Bill No. 5151.

The motion by Senator Hawkins did not carry and floor amendment no. 134 was not adopted by voice vote.

MOTION

Senator Short moved that the following floor amendment no. 150 by Senator Short be adopted:

On page 62, line 8, after "(7)(a)" insert "It is the intent of the legislature to encourage the long-standing commitment and direction of the department to commit to the reunification and support of kinship caregivers. It is also the intent of the legislature to respect and appreciate sincerely held religious beliefs and not discriminate against potential kinship caregivers because of their beliefs when child-specific licenses are issued.

(b)"

Reletter the remaining subsections consecutively and correct any internal references accordingly.

Senators Short and Fortunato spoke in favor of adoption of the amendment.

Senator Wellman spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 150 by Senator Short on page 62, line 8 to Substitute Senate Bill No. 5151.

The motion by Senator Short did not carry and floor amendment no. 150 was not adopted by voice vote.

MOTION

On motion of Senator Wilson, C., the rules were suspended, Substitute Senate Bill No. 5151 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Wilson, C., Wellman and King spoke in favor of passage of the bill.

Senators Hawkins, Short and Warnick spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5151.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5151 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 18; Absent, 0; Excused, 2.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Braun, Brown, Dozier, Ericksen, Fortunato, Gildon, Hawkins, Holy, Honeyford, McCune, Muzzall, Padden, Schoesler, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

Excused: Senators Rivers and Sheldon

SUBSTITUTE SENATE BILL NO. 5151, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5331, by Senators Gildon, Darneille, Dhingra, Hasegawa, Nguyen, Nobles, Warnick, Wellman, and Wilson, C.

Establishing an early childhood court program for young children and their families involved or at risk of becoming involved in Washington's child welfare system.

MOTIONS

On motion of Senator Gildon, Second Substitute Senate Bill No. 5331 was substituted for Senate Bill No. 5331 and the substitute bill was placed on the second reading and read the second time.

Revised for 2nd Substitute: Establishing an early childhood court program for young children and their families involved in Washington's child welfare system.

On motion of Senator Gildon, the rules were suspended, Second Substitute Senate Bill No. 5331 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Gildon, Darneille and Wagoner spoke in favor of passage of the bill.

Senators Short and Braun spoke on passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5331.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5331 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senators Rivers and Sheldon

SECOND SUBSTITUTE SENATE BILL NO. 5331, having

received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

PERSONAL PRIVILEGE

Senator Gildon: "Thank you, Mr. President. I'd just like to thank this austere body for passing my first bill here even though evidently it originated in the chamber across the way. So, I expect I will continue to get razed about that for some time. But, in keeping with traditions of this particular body, I would just like to announce to everyone that you know we're supposed to provide a gift for passage of our first bill. And we have a little thing in Puyallup that we are quite proud of in the 25th Legislative District. You may know it as the Washington State Fair, but we still call it the Puyallup Fair, and one of the jewels of the Puyallup Fair is, and a reason to come there, is fair scones. And so, I would like to, as a tribute to passing my first bill, provide each member with a, some scones from the Puyallup State Fair. Thank you."

President Heck: "Would that be a bag of scones each Senator Gildon?"

Senator Gildon: "Hey, I'm a working man. We're going to have to see about that but..."

SECOND READING

SENATE BILL NO. 5035, by Senators Dhingra, Nguyen, Billig, Carlyle, Darneille, Das, Hasegawa, Kuderer, Liias, Lovelett, Mullet, Pedersen, Rolfes, Saldaña, Salomon, Stanford, Wellman, and Wilson, C.

Concerning offender scoring of drug offenses.

MOTION

On motion of Senator Dhingra, Substitute Senate Bill No. 5035 was substituted for Senate Bill No. 5035 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Short moved that the following floor amendment no. 141 by Senator Short be adopted:

On page 2, line 19, after "conviction" strike ": (i) Under" and insert "under"

On page 2, beginning on line 20, after "possess" strike all material through "deliver" on line 22 and insert "where such offense was the only offense charged"

Senator Short spoke in favor of adoption of the amendment.

Senator Dhingra spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 141 by Senator Short on page 2, line 19 to Substitute Senate Bill No. 5035.

The motion by Senator Short did not carry and floor amendment no. 141 was not adopted by voice vote.

MOTION

Senator Dozier moved that the following floor amendment no. 139 by Senator Dozier be adopted:

On page 2, at the beginning of line 24, strike all material

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through "sentence" and insert "last date of total confinement in a state or local correctional facility associated with or required by that conviction, if applicable, or last date of community custody or supervision associated with that conviction, whichever is later"

Senator Dozier spoke in favor of adoption of the amendment.
 Senator Dhingra spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 139 by Senator Dozier on page 2, line 24 to Substitute Senate Bill No. 5035.

The motion by Senator Dozier did not carry and floor amendment no. 139 was not adopted by voice vote.

MOTION

Senator Wagoner moved that the following floor amendment no. 137 by Senator Wagoner be adopted:

On page 2, line 24, after "sentence" insert ", and the person has paid all legal financial obligations and court costs associated with that conviction"

Senator Wagoner spoke in favor of adoption of the amendment.
 Senator Dhingra spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 137 by Senator Wagoner on page 2, line 24 to Substitute Senate Bill No. 5035.

The motion by Senator Wagoner did not carry and floor amendment no. 137 was not adopted by voice vote.

MOTION

Senator Gildon moved that the following floor amendment no. 140 by Senator Gildon be adopted:

On page 2, line 24, after "sentence" insert ", and the person has no subsequent convictions for any drug offense"

Senators Gildon and Padden spoke in favor of adoption of the amendment.

Senator Dhingra spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 140 by Senator Gildon on page 2, line 24 to Substitute Senate Bill No. 5035.

The motion by Senator Gildon did not carry and floor amendment no. 140 was not adopted by voice vote.

MOTION

On motion of Senator Dhingra, the rules were suspended, Substitute Senate Bill No. 5035 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Dhingra spoke in favor of passage of the bill.

Senator Padden spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5035.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5035 and the bill passed the Senate by the following vote: Yeas, 27; Nays, 19; Absent, 0; Excused, 3.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway,

Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Van De Wege and Wilson, C.

Voting nay: Senators Braun, Brown, Dozier, Fortunato, Gildon, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

Excused: Senators Ericksen, Sheldon and Wellman

SUBSTITUTE SENATE BILL NO. 5035, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5327, by Senators Brown, Frockt, Lovelett, Rivers, Short, Warnick and Wellman

Creating a confidential youth safety and well-being tip line.

MOTIONS

On motion of Senator Brown, Second Substitute Senate Bill No. 5327 was substituted for Senate Bill No. 5327 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Brown, the rules were suspended, Second Substitute Senate Bill No. 5327 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Brown, Dhingra, Frockt, Wagoner, Wilson, L. and Wilson, C. spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5327.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5327 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senator Ericksen

SECOND SUBSTITUTE SENATE BILL NO. 5327, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5119, by Senators Darneille, Das, Hasegawa, Mullet, Nguyen, Robinson, Salomon, and Wilson, C.

Concerning individuals in custody.

MOTION

On motion of Senator Darneille, Substitute Senate Bill No. 5119 was substituted for Senate Bill No. 5119 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Wagoner moved that the following floor amendment no. 098 by Senator Wagoner be adopted:

On page 7, after line 15, insert the following:

"**NEW SECTION. Sec. 4.** If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void."

On page 1, beginning on line 2 of the title, after "43.06C RCW;" strike all material through "RCW" on line 3 and insert "adding a new section to chapter 70.48 RCW; and creating a new section"

Senators Wagoner, Darneille and Dozier spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 098 by Senator Wagoner on page 7, line 15 to Substitute Senate Bill No. 5119.

The motion by Senator Wagoner carried and floor amendment no. 098 was adopted by voice vote.

MOTION

On motion of Senator Darneille, the rules were suspended, Engrossed Substitute Senate Bill No. 5119 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Darneille, Gildon, Padden and Sheldon spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5119.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5119 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senator Ericksen

ENGROSSED SUBSTITUTE SENATE BILL NO. 5119, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 1:10 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President for the purposes of lunch, Rules, and caucus.

AFTERNOON SESSION

The Senate was called to order at 4:28 p.m. by President Heck.

SECOND READING

SENATE BILL NO. 5038, by Senators Kuderer, Das, Carlyle, Darneille, Dhingra, Hunt, Liias, Lovelett, Nguyen, Pedersen, Rolfes, Saldaña, Salomon, Wellman, and Wilson, C.

Prohibiting the open carry of certain weapons at public demonstrations and the state capitol.

MOTION

On motion of Senator Kuderer, Substitute Senate Bill No. 5038 was substituted for Senate Bill No. 5038 and the substitute bill was placed on the second reading and read the second time.

Revised for 1st Substitute: Prohibiting the open carry of certain weapons at public permitted demonstrations and the state capitol.

MOTION

Senator Van De Wege moved that the following striking floor amendment no. 094 by Senator Van De Wege be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.41.300 and 2018 c 201 s 9003 and 2018 c 201 s 6007 are each reenacted and amended to read as follows:

(1) It is unlawful for any person to enter the following places when he or she knowingly possesses or knowingly has under his or her control a weapon:

(a) The restricted access areas of a jail, or of a law enforcement facility, or any place used for the confinement of a person (i) arrested for, charged with, or convicted of an offense, (ii) held for extradition or as a material witness, or (iii) otherwise confined pursuant to an order of a court, except an order under chapter 13.32A or 13.34 RCW. Restricted access areas do not include common areas of egress or ingress open to the general public;

(b) Those areas in any building which are used in connection with court proceedings, including courtrooms, jury rooms, judge's chambers, offices and areas used to conduct court business, waiting areas, and corridors adjacent to areas used in connection with court proceedings. The restricted areas do not include common areas of ingress and egress to the building that is used in connection with court proceedings, when it is possible to protect court areas without restricting ingress and egress to the building. The restricted areas shall be the minimum necessary to fulfill the objective of this subsection (1)(b).

For purposes of this subsection (1)(b), "weapon" means any firearm, explosive as defined in RCW 70.74.010, or any weapon of the kind usually known as slungshot, sand club, or metal knuckles, or any knife, dagger, dirk, or other similar weapon that is capable of causing death or bodily injury and is commonly used with the intent to cause death or bodily injury.

In addition, the local legislative authority shall provide either a stationary locked box sufficient in size for pistols and key to a weapon owner for weapon storage, or shall designate an official to receive weapons for safekeeping, during the owner's visit to restricted areas of the building. The locked box or designated official shall be located within the same building used in connection with court proceedings. The local legislative authority shall be liable for any negligence causing damage to or loss of a

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weapon either placed in a locked box or left with an official during the owner's visit to restricted areas of the building.

The local judicial authority shall designate and clearly mark those areas where weapons are prohibited, and shall post notices at each entrance to the building of the prohibition against weapons in the restricted areas;

(c) The restricted access areas of a public mental health facility licensed or certified by the department of health for inpatient hospital care and state institutions for the care of the mentally ill, excluding those facilities solely for evaluation and treatment. Restricted access areas do not include common areas of egress and ingress open to the general public;

(d) That portion of an establishment classified by the state liquor and cannabis board as off-limits to persons under (~~twenty-one~~) 21 years of age; or

(e) The restricted access areas of a commercial service airport designated in the airport security plan approved by the federal transportation security administration, including passenger screening checkpoints at or beyond the point at which a passenger initiates the screening process. These areas do not include airport drives, general parking areas and walkways, and shops and areas of the terminal that are outside the screening checkpoints and that are normally open to unscreened passengers or visitors to the airport. Any restricted access area shall be clearly indicated by prominent signs indicating that firearms and other weapons are prohibited in the area.

(2)(a) Except as provided in (c) of this subsection, it is unlawful for any person to openly carry a firearm or other weapon as described in this chapter at any permitted demonstration. This subsection (2)(a) applies whether the person carries the firearm or other weapon on his or her person or in a vehicle.

(b) It is unlawful for any person to openly carry a firearm or other weapon within 250 feet of a permitted demonstration after a duly authorized state or local law enforcement officer advises the person of the permitted demonstration and directs the person to leave until he or she no longer possesses or controls the firearm or other weapon. This subsection (2)(b) does not apply to any person possessing or controlling any firearm or other weapon on private property owned or leased by that person.

(c) Duly authorized federal, state, and local law enforcement officers and personnel are exempt from the provisions of this section when carrying a firearm or other weapon in conformance with their employing agency's policy. Members of the armed forces of the United States or the state of Washington are exempt from the provisions of this section when carrying a firearm or other weapon in the discharge of official duty or traveling to or from official duty.

(d) For purposes of this subsection, the following definitions apply:

(i) "Permitted demonstration" means either: (A) A gathering for which a permit has been issued by a federal agency, state agency, or local government; or (B) a gathering of 15 or more people who are assembled for a single event at a public place, including a march, rally, vigil, sit-in, or picketing, which has been declared as permitted by the chief executive, sheriff, or chief of police of a local government in which the gathering occurs.

(ii) "Public place" means any site accessible to the general public for business, entertainment, or another lawful purpose. A "public place" includes, but is not limited to, the front, immediate area, or parking lot of any store, shop, restaurant, tavern, shopping center, or other place of business; any public building, its grounds, or surrounding area; or any public parking lot, street, right-of-way, sidewalk, public park, or other public grounds.

(3) Cities, towns, counties, and other municipalities may enact laws and ordinances:

(a) Restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized. Such laws and ordinances shall not abridge the right of the individual guaranteed by Article I, section 24 of the state Constitution to bear arms in defense of self or others; and

(b) Restricting the possession of firearms in any stadium or convention center, operated by a city, town, county, or other municipality, except that such restrictions shall not apply to:

(i) Any pistol in the possession of a person licensed under RCW 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

(ii) Any showing, demonstration, or lecture involving the exhibition of firearms.

~~((3))~~ (4)(a) Cities, towns, and counties may enact ordinances restricting the areas in their respective jurisdictions in which firearms may be sold, but, except as provided in (b) of this subsection, a business selling firearms may not be treated more restrictively than other businesses located within the same zone. An ordinance requiring the cessation of business within a zone shall not have a shorter grandfather period for businesses selling firearms than for any other businesses within the zone.

(b) Cities, towns, and counties may restrict the location of a business selling firearms to not less than (~~five hundred~~) 500 feet from primary or secondary school grounds, if the business has a storefront, has hours during which it is open for business, and posts advertisements or signs observable to passersby that firearms are available for sale. A business selling firearms that exists as of the date a restriction is enacted under this subsection ~~((3))~~ (4)(b) shall be grandfathered according to existing law.

~~((4))~~ (5) Violations of local ordinances adopted under subsection ~~((2))~~ (3) of this section must have the same penalty as provided for by state law.

~~((5))~~ (6) The perimeter of the premises of any specific location covered by subsection (1) of this section shall be posted at reasonable intervals to alert the public as to the existence of any law restricting the possession of firearms on the premises.

~~((6))~~ (7) Subsection (1) of this section does not apply to:

(a) A person engaged in military activities sponsored by the federal or state governments, while engaged in official duties;

(b) Law enforcement personnel, except that subsection (1)(b) of this section does apply to a law enforcement officer who is present at a courthouse building as a party to an action under chapter 10.14, 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party has alleged the existence of domestic violence as defined in RCW 26.50.010; or

(c) Security personnel while engaged in official duties.

~~((7))~~ (8) Subsection (1)(a), (b), (c), and (e) of this section does not apply to correctional personnel or community corrections officers, as long as they are employed as such, who have completed government-sponsored law enforcement firearms training, except that subsection (1)(b) of this section does apply to a correctional employee or community corrections officer who is present at a courthouse building as a party to an action under chapter 10.14, 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party has alleged the existence of domestic violence as defined in RCW 26.50.010.

~~((8))~~ (9) Subsection (1)(a) of this section does not apply to a person licensed pursuant to RCW 9.41.070 who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises or checks his or her firearm. The person may reclaim the firearms upon leaving but must immediately and directly depart from the place or facility.

~~((9))~~ (10) Subsection (1)(c) of this section does not apply to any administrator or employee of the facility or to any person who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises.

~~((40))~~ (11) Subsection (1)(d) of this section does not apply to the proprietor of the premises or his or her employees while engaged in their employment.

~~((41))~~ (12) Government-sponsored law enforcement firearms training must be training that correctional personnel and community corrections officers receive as part of their job requirement and reference to such training does not constitute a mandate that it be provided by the correctional facility.

~~((42))~~ (13) Any person violating subsection (1) or (2) of this section is guilty of a gross misdemeanor.

~~((43))~~ (14) "Weapon" as used in this section means any firearm, explosive as defined in RCW 70.74.010, or instrument or weapon listed in RCW 9.41.250.

NEW SECTION. Sec. 2. A new section is added to chapter 9.41 RCW to read as follows:

(1) Unless exempt under subsection (4) of this section, it is unlawful for any person to knowingly open carry a firearm or other weapon described in this chapter on the west state capitol campus grounds, in any buildings on the state capitol grounds, in any state legislative office, or at any location of a public legislative hearing or meeting during the hearing or meeting.

(2) "Buildings on the state capitol grounds" means the following buildings located on the state capitol grounds, commonly known as Legislative, Temple of Justice, John L. O'Brien, John A. Cherberg, Irving R. Newhouse, Joel M. Pritchard, Helen Sommers, Insurance, Governor's mansion, Visitor Information Center, Carlyon House, Ayer House, General Administration, 1500 Jefferson, James M. Dolliver, Old Capitol, Capitol Court, State Archives, Natural Resources, Office Building #2, Highway-License, Transportation, Employment Security, Child Care Center, Union Avenue, Washington Street, Professional Arts, State Farm, and Powerhouse buildings.

(3) "West state capitol campus grounds" means areas of the campus south of Powerhouse Rd. SW, south of Union Avenue SW as extended westward to Powerhouse Rd. SW, west of Capitol Way, north of 15th Avenue SW between Capitol Way S. and Water Street SW, west of Water Street between 15th Avenue SW and 16th Avenue SW, north of 16th Avenue SW between Water Street SW and the east banks of Capitol Lake, and east of the banks of Capitol Lake.

(4) Duly authorized federal, state, or local law enforcement officers or personnel are exempt from this section when carrying a firearm in conformance with their employing agency's policy, or any member of the armed forces of the United States or the state of Washington in the discharge of official duty or traveling to or from official duty.

(5) A person violating this section is guilty of a gross misdemeanor."

On page 1, line 2 of the title, after "capitol;" strike the remainder of the title and insert "reenacting and amending RCW 9.41.300; adding a new section to chapter 9.41 RCW; and prescribing penalties."

Senator Van De Wege spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of striking floor amendment no. 094 by Senator Van De Wege to Substitute Senate Bill No. 5038.

The motion by Senator Van De Wege carried and striking floor amendment no. 094 was adopted by voice vote.

MOTION

On motion of Senator Kuderer, the rules were suspended, Engrossed Substitute Senate Bill No. 5038 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kuderer, Dhingra, Hunt, Salomon, and Hobbs spoke in favor of passage of the bill.

Senators Fortunato, Sheldon, Warnick, Padden, Wilson, L., Short, Muzzall, Brown, King, Schoesler, Braun, Wilson, J., Wagoner, and McCune spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5038.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5038 and the bill passed the Senate by the following vote: Yeas, 28; Nays, 20; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Van De Wege, Wellman and Wilson, C.

Voting nay: Senators Braun, Brown, Dozier, Fortunato, Gildon, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

Excused: Senator Ericksen

ENGROSSED SUBSTITUTE SENATE BILL NO. 5038, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5148, by Senators Frockt, Hunt, Billig, Darneille, Das, Hasegawa, Kuderer, Lovelett, Pedersen, Saldaña, Salomon, and Wilson, C.

Concerning the harassment of election officials.

MOTIONS

On motion of Senator Frockt, Substitute Senate Bill No. 5148 was substituted for Senate Bill No. 5148 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Frockt, the rules were suspended, Substitute Senate Bill No. 5148 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Frockt spoke in favor of passage of the bill.

Senator Padden spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5148.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5148 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland,

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Conway, Darneille, Das, Dhingra, Dozier, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, Lovelett, McCune, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senators Mullet and Saldaña

Excused: Senator Ericksen

SUBSTITUTE SENATE BILL NO. 5148, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5193, by Senators Conway, Keiser, Hasegawa, and Wilson, C.

Concerning unemployment insurance claim adjudicators.

MOTION

On motion of Senator Conway, Substitute Senate Bill No. 5193 was substituted for Senate Bill No. 5193 and the substitute bill was placed on the second reading and read the second time.

Revised for 1st Substitute: Concerning unemployment insurance systems enhancements, including creating a reserve force of unemployment claim adjudicators, effective and equitable claims processing, and transparent performance metrics.

WITHDRAWAL OF AMENDMENT

On motion of Senator Conway and without objection, striking floor amendment no. 088 by Senator Conway to Substitute Senate Bill No. 5193 was withdrawn.

MOTION

Senator King moved that the following striking floor amendment no. 152 by Senator King be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds with roughly \$4,700,000,000 in the state unemployment insurance trust fund, Washington entered the COVID-19 pandemic with one of the strongest and best-funded trust funds in the nation. During an unprecedented time, the state's unemployment insurance trust fund provided critical economic support to Washington workers and businesses through unemployment benefits and helped bolster the state's economy.

The legislature recognizes that the employment security department maintains a recession readiness team that prepares the agency to respond to economic changes, helping employers and employees plan for the future. Based on experience with past recessions, the employment security department's readiness team prepared contingency plans for a possible economic crisis. During the great recession, there were approximately 61,000 continued unemployment insurance claims in September 2008, rising to a high of approximately 173,000 claims in January of 2010, a period of 16 months. During the first three months of COVID-19, unemployment insurance claims were more than double those

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filed during the great recession, a time period that was seven times longer. From February 2020 to April 2020, unemployment insurance claims went from approximately 62,000 to approximately 447,000 claims. The sudden magnitude of claimants overwhelmed the system; contributing to Washingtonians waiting months for their earned benefits and facing deep economic insecurity.

The legislature finds that, despite conscientious economic emergency planning by the employment security department, claims processing issues are central problems encumbering the employment security department's ability to timely meet a suddenly increased demand for benefits. Immediate additional measures to facilitate rapid and equitable provision of unemployment benefits now, and enhanced preparation to do so in future economic downturns or emergencies, are critically important.

The legislature further finds that a federal retroactive funding model that looks back instead of preparing for potential economic shocks ahead was a major contributing factor to the challenges faced by all states during the COVID-19 pandemic in quickly paying benefits to unemployed workers. Our employment security department cannot quickly scale up for increased workloads and new programs if its administrative funding is based on funding that looks backward instead of forward.

Amid an unprecedented need for benefits and stresses on our unemployment insurance program, the legislature intends to create a pool of qualified unemployment insurance claim adjudicators, reduce claimants' need for assistance, assure transparency of claims processing performance measures, and make other system enhancements. Together, these systems enhancements will ensure quicker claim resolution and benefit payment; thus providing critical economic support during future unemployment crises.

NEW SECTION. Sec. 2. A new section is added to chapter 50.12 RCW to read as follows:

(1) The employment security department must create a training program to prepare a reserve force of skilled unemployment insurance claim adjudicators who can be available quickly when claims volume demands.

(2) The program must:

(a) Be open to both state and other public employees and private citizens;

(b) Be of sufficient quality that persons completing the training and any required continuing education would be ready to work as an unemployment insurance claim adjudicator within one week of commencing employment with the employment security department; and

(c) Provide a certification of completion to participants who complete the program.

(3) The office of financial management must collaborate with the employment security department to assist the department in identifying agencies with current state employees who meet the minimum qualifications for unemployment insurance claims' adjudicator. Employees at other agencies, who meet the minimum qualifications of the unemployment insurance claims' adjudicator classification, may, upon approval of their agency, attend required training provided by the department. In designated times of high unemployment claims, current state employees who have completed required training and who are otherwise qualified may be selected to assist the department in processing unemployment insurance claims or related activities. The office of financial management may adopt rules or issue guidance to assist in the implementation of this provision.

(4) By October 1, 2021, and each year thereafter, the employment security department must provide a report to the

house of representatives committee on labor and workplace standards and the senate committee on labor, commerce, and tribal affairs, or successor committees, on the number of persons with current certifications under subsection (2)(c) of this section, the number of people employed by the department and over what period of time, and the adjudicator training and hiring costs.

NEW SECTION. Sec. 3. A new section is added to chapter 50.12 RCW to read as follows:

(1) The department must designate department employees to assure that letters, alerts, and notices produced manually or by the department's unemployment insurance technology system are written in plainly understood language and tested on claimants before they are approved for use. Criteria for approval must include comprehensibility, clarity, and readability. If the messaging of any letter, alert, or notice falls short of those criteria, manual methods of producing a comprehensible version shall be considered while the department waits for their unemployment insurance technology system to incorporate required modifications.

(2) Determinations and redeterminations must clearly convey applicable statute numbers, a brief explanation of pertinent law, outline of relevant facts, reasoning, decision, and result.

(3) The department will work with an unemployment insurance advisory committee comprised of business and worker advocates to explore:

(a) Establishing thresholds that will trigger automatic adjustments in department staffing assignments and phone agent staffing levels;

(b) Establishing a pilot to provide a caseworker approach to the claims of a group of claimants with that casework carrying over to reemployment services;

(c) Increasing language access, including by providing translation of notices sent to claimants as part of their unemployment insurance claims; and

(d) Frequency of the initial and continuing training to meet the needs of section 2 of this act.

(4) Dedicated toll-free phone lines must be established for claimants who lack computer skills or access to computers, claimants with disabilities, and claimants with limited English proficiency.

NEW SECTION. Sec. 4. A new section is added to chapter 50.12 RCW to read as follows:

When the average rate of total unemployment in the state, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds five percent, the department must:

(1) Maintain an online data dashboard.

(2) Provide quarterly reports with performance metrics that include:

(a) Updates of unemployment rates;

(b) Total numbers of claims paid, amount compensated, claims denied, claims pending in adjudication, claims on which payment has been halted for review, pending appeals, appeals redetermined by the department, and appeals sent to the office of administrative hearings;

(c) Claims center phone statistics including call volume, hold times, abandoned calls, repeat calls, and all-circuits-busy messages for both claimants and employers;

(d) Ratio of staff phone agents to employers and ratio of staff phone agents to claimants;

(e) Number and dollar total of overpayments imposed and overpayment waiver approval rate; and

(f) The percentage of unemployed persons in the state receiving benefits (reciprocity rate).

NEW SECTION. Sec. 5. (1) The unemployment insurance

legislative work group is established. The work group consists of the following members:

(a) Two members from each of the two largest caucuses of the senate appointed by the president of the senate; and

(b) Two members from each of the two largest caucuses of the house of representatives appointed by the speaker of the house of representatives.

(2) The employment security department must:

(a) Meet with the unemployment insurance legislative work group at least quarterly to:

(i) Inform the members of the progress in implementing this act; and

(ii) Report on any new federal programs or funds received by the department for unemployment compensation and administration and the use of such funds; and

(b) Provide information and research unemployment issues as requested by members of the work group.

(3) The work group must choose a chair or cochairs from among its legislative membership. The chair is, or cochairs are, responsible for convening the meetings of the work group no less than quarterly each year. The work group must, at least:

(a) Review the department's software and technology issues, including issues causing claim delays, inaccurate automated notifications;

(b) Review the department's protocols and process for protecting sensitive data;

(c) Consider ways to support the unemployment insurance advisory committee provided for in section 3(3) of this act;

(d) Consider ways to assist claimants and businesses during times when additional adjudicators are needed or times of high unemployment; and

(e) Consider other relevant issues, as determined by the work group.

(4) This section expires December 1, 2022."

On page 1, line 4 of the title, after "metrics;" strike the remainder of the title and insert "adding new sections to chapter 50.12 RCW; creating new sections; and providing an expiration date."

Senators King, Conway, and Keiser spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of striking floor amendment no. 152 by Senator King to Substitute Senate Bill No. 5193.

The motion by Senator King carried and striking floor amendment no. 152 was adopted by voice vote.

MOTION

On motion of Senator Conway, the rules were suspended, Engrossed Substitute Senate Bill No. 5193 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Conway, King, and Muzzall spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5193.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5193 and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Fortunato, Frockt,

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Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Excused: Senator Ericksen

ENGROSSED SUBSTITUTE SENATE BILL NO. 5193, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 6:00 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President for the purpose of dinner.

EVENING SESSION

The Senate was called to order at 7:03 p.m. by President Heck.

REMARKS BY THE PRESIDENT

President Heck: "Before we begin, look, I don't know if I will do this again, but I've been asked: Senator Billig, Senator Holy, Senator Patton have asked me to share with you that the number one ranked basketball team in America, Gonzaga, won again tonight and in so doing Gonzaga of Spokane Washington and in so doing extended their win streak beyond a year the longest continuous win streak of NCAA D1 sports team, I don't know if I'll do that again Senator Billig, if you ask but."

PERSONAL PRIVILEGE

Senator Billig: "Mr. President, thank you for that announcement. I very much appreciate it and I just appreciate how gracious you are to include Senator Holy and Senator Padden in your announcement and congratulations, but I think it is appropriate to remind the body that the number one basketball team in the country is located in the 3rd Legislative District Mr. President."

REPLY BY THE PRESIDENT

President Heck: "That university, Senator Billig, that I might remind you, Senator Padden has both an undergraduate degree and a law degree from and as a matter-of-fact Senator Holy's law degree I believe is from Gonzaga. There is plenty of credit to go around Senator Billig."

SECOND READING

SENATE BILL NO. 5190, by Senators Holy, Frockt, Conway, Hasegawa, Honeyford, Keiser, King, Lovelett, Randall, Salomon, Van De Wege, Warnick, Wilson, C., and Wilson, J.

Providing health care workers with presumptive benefits during a public health emergency.

MOTIONS

On motion of Senator Holy, Substitute Senate Bill No. 5190 was substituted for Senate Bill No. 5190 and the substitute bill

was placed on the second reading and read the second time.

Senator Holy moved that the following striking floor amendment no. 129 by Senator Holy be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 50.04.294 and 2006 c 13 s 9 are each amended to read as follows:

With respect to claims that have an effective date on or after January 4, 2004:

(1) "Misconduct" includes, but is not limited to, the following conduct by a claimant:

(a) Willful or wanton disregard of the rights, title, and interests of the employer or a fellow employee;

(b) Deliberate violations or disregard of standards of behavior which the employer has the right to expect of an employee;

(c) Carelessness or negligence that causes or would likely cause serious bodily harm to the employer or a fellow employee; or

(d) Carelessness or negligence of such degree or recurrence to show an intentional or substantial disregard of the employer's interest.

(2) The following acts are considered misconduct because the acts signify a willful or wanton disregard of the rights, title, and interests of the employer or a fellow employee. These acts include, but are not limited to:

(a) Insubordination showing a deliberate, willful, or purposeful refusal to follow the reasonable directions or instructions of the employer;

(b) Repeated inexcusable tardiness following warnings by the employer;

(c) Dishonesty related to employment, including but not limited to deliberate falsification of company records, theft, deliberate deception, or lying;

(d) Repeated and inexcusable absences, including absences for which the employee was able to give advance notice and failed to do so;

(e) Deliberate acts that are illegal, provoke violence or violation of laws, or violate the collective bargaining agreement. However, an employee who engages in lawful union activity may not be disqualified due to misconduct;

(f) Violation of a company rule if the rule is reasonable and if the claimant knew or should have known of the existence of the rule; or

(g) Violations of law by the claimant while acting within the scope of employment that substantially affect the claimant's job performance or that substantially harm the employer's ability to do business.

(3) "Misconduct" does not include:

(a) Inefficiency, unsatisfactory conduct, or failure to perform well as the result of inability or incapacity;

(b) Inadvertence or ordinary negligence in isolated instances; ~~((or))~~

(c) Good faith errors in judgment or discretion; or

(d) Entering quarantine because of exposure to or contracting the disease that is the subject of the declaration of the public health emergency.

(4) "Gross misconduct" means a criminal act in connection with an individual's work for which the individual has been convicted in a criminal court, or has admitted committing, or conduct connected with the individual's work that demonstrates a flagrant and wanton disregard of and for the rights, title, or interest of the employer or a fellow employee.

Sec. 2. RCW 50.20.010 and 2021 c 2 s 8 are each amended to read as follows:

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

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

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

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

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

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

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

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

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

(i) The individual has completed such services; or

(ii) There is justifiable cause for the claimant's failure to participate in such services; and

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

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

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

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

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

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

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

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

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

(B) The department of health; or

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

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

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

(B) The department of health; or

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

(5) During the weeks of a public health emergency, an unemployed individual may also meet the requirements of subsection (1)(c) of this section if the unemployed individual described in RCW 50.20.050(3) and 50.29.021(1)(c)(iii) is able to perform, available to perform, and actively seeking suitable work which will commence after quarantine or which can be performed for an employer from the individual's home.

Sec. 3. RCW 50.20.050 and 2021 c 2 s 10 are each amended to read as follows:

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

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

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

(i) The duration of the work;

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

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

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

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

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

(A) The claimant pursued all reasonable alternatives to preserve the claimant's employment status by requesting a leave of absence, by having promptly notified the employer of the reason for the absence, and by having promptly requested reemployment when again able to assume employment. These alternatives need not be pursued, however, when they would have

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been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) The duration of the work;

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

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

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

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

(ii) The separation was necessary because of the illness or disability of the claimant or the death, illness, or disability of a

member of the claimant's immediate family if:

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

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

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

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

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

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

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

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

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

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

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

(xii) During a public health emergency:

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

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

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

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

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

(3) With respect to claims that occur on or after July 4, 2021, a claimant has good cause and is not disqualified from benefits under subsection (2)(a) of this section under the following circumstances, in addition to those listed under subsection (2)(b) of this section, if, during a public health emergency, the claimant worked at a health care facility as defined in RCW 9A.50.010, was directly involved in the delivery of health services, and left work due to entering quarantine because of exposure to or contracting the disease that is the subject of the declaration of the public health emergency.

(4) Notwithstanding subsection (1) of this section, a claimant who was simultaneously employed in full-time employment and part-time employment and is otherwise eligible for benefits from the loss of the full-time employment shall not be disqualified from benefits because the claimant:

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

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

Sec. 4. RCW 50.29.021 and 2021 c 2 s 16 are each amended to read as follows:

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

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

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

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

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

(iii) During a public health emergency, the claimant worked at a health care facility as defined in RCW 9A.50.010, was directly involved in the delivery of health services, and was terminated from work due to entering quarantine because of exposure to or contracting the disease that is the subject of the declaration of the public health emergency.

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

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

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

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

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

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

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

(e) Benefits paid to an individual who qualifies for benefits under RCW 50.20.050 (1)(b) (iv) or (xi) ~~((or))~~, (2)(b) (iv), (xi), or (xii), or (3), as applicable, shall not be charged to the experience rating account of any contribution paying employer.

(f) Benefits paid that exceed the benefits that would have been paid if the weekly benefit amount for the claim had been determined as one percent of the total wages paid in the individual's base year shall not be charged to the experience rating account of any contribution paying employer. This subsection (2)(f) does not apply to the calculation of contribution rates under RCW 50.29.025 for rate year 2010 and thereafter.

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

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

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

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

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

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

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

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

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

(iv) Continues to be employed on a regularly scheduled permanent part-time basis by a base year employer and who at some time during the base year was concurrently employed and subsequently separated from at least one other base year

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employer. Benefit charge relief ceases when the employment relationship between the employer requesting relief and the claimant is terminated. This subsection does not apply to shared work employers under chapter 50.60 RCW;

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

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

(vii) Worked for an employer for ~~((twenty))~~ 20 weeks or less, and was laid off at the end of temporary employment when that employee temporarily replaced a permanent employee receiving family or medical leave benefits under Title 50A RCW, and the layoff is due to the return of that permanent employee. This subsection (3)(a)(vii) applies to claims with an effective date on or after January 1, 2020; or

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

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

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

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

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

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

the following calculations for an employer is met:

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

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

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

NEW SECTION. Sec. 5. If any part of sections 1 through 4 of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of sections 1 through 4 of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of sections 1 through 4 of this act. Rules adopted under sections 1 through 4 of this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

NEW SECTION. Sec. 6. A new section is added to chapter 51.32 RCW to read as follows:

(1) For health care employees who are covered under this title, there exists a prima facie presumption that any infectious or contagious diseases which are the subject of a public health emergency are occupational diseases under RCW 51.08.140 during a public health emergency. There is a presumption that the health care employee contracted or was exposed to the disease at the health care facility.

(2) The health care employee must provide verification, as required by the department by rule, to the department or the self-insurer that the employee is in quarantine or has contracted the disease after exposure to the infectious or contagious disease that is the subject of the public health emergency.

(3) This presumption of occupational disease may be rebutted by clear and convincing evidence that:

(a) The exposure to the infectious or contagious disease which is the subject of the public health emergency occurred from other employment or nonemployment activities; or

(b) The employee was working from the employee's home or other location not under the employer's control, on leave from the employee's employment, or some combination thereof, for the period of quarantine outlined for the disease immediately prior to the employee's date of disease contraction or period of incapacity resulting from exposure to the disease which is the subject of the public health emergency.

(4) For health care employees whose claims are allowed under this section, temporary total disability benefits as provided in RCW 51.32.090 shall be payable beginning the first day the worker is directed to quarantine or is unable to work due to the exposure or contraction of the disease, whichever comes first. If leave or similar benefits are paid to the worker as part of a federal or state program for these employees during the public health emergency, total temporary disability benefits are not payable for the same period of time covered by this federal or state program.

(5)(a) When a determination involving the presumption established under this section is appealed to the board of industrial insurance appeals and the final decision allows the claim of benefits, the board of industrial insurance appeals shall order that all reasonable costs of the appeal, including attorneys' fees and witness fees, be paid to the worker or the worker's beneficiary by the opposing party. If the opposing party is a state fund employer or retrospective rating group, the costs and fees are paid by the employer or retrospective rating group.

(b) When a determination involving the presumption established in this section is appealed to any court and the final

decision allows the claim for benefits, the court shall order that all reasonable costs of appeal, including attorneys' fees and witness fees, be paid to the worker or the worker's beneficiary by the opposing party. If the opposing party is a state fund employer or retrospective rating group, the costs and fees are paid by the employer or retrospective rating group.

(c) When reasonable costs of the appeal must be paid by the department as the opposing party in a state fund case, the costs shall be paid from the accident fund and charged to the costs of the claim.

(6) Costs of claims allowed under this section shall not affect the experience rating of employers insured by the state fund.

(7) For purposes of this section:

(a) "Health care employee" means an employee of any health care facility or other organization that provides emergency or medical services who may have direct contact with any person who has been exposed to or tested positive for any infectious or contagious diseases which are the subject of a public health emergency.

(b) "Health care facility" has the same meaning as in RCW 9A.50.010.

(c) "Public health emergency" means a declaration or order that covers the jurisdiction where the employee was working on the date of exposure concerning any dangerous, contagious, or infectious diseases, including a pandemic, and is issued as follows:

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

(ii) The governor of Washington declared a state of emergency under RCW 43.06.010(12).

(8) The presumption in subsection (1) of this section takes effect on the day the national, regional, or state emergency is declared and continues until this declaration is revoked.

(9) The provisions of RCW 51.28.055 concerning time limits for filing claims for occupational disease apply to claims covered under this section.

Sec. 7. RCW 51.52.130 and 2007 c 490 s 4 are each amended to read as follows:

(1) If, on appeal to the superior or appellate court from the decision and order of the board, said decision and order is reversed or modified and additional relief is granted to a worker or beneficiary, or in cases where a party other than the worker or beneficiary is the appealing party and the worker's or beneficiary's right to relief is sustained, a reasonable fee for the services of the worker's or beneficiary's attorney shall be fixed by the court.

(a) In fixing the fee the court shall take into consideration the fee or fees, if any, fixed by the director and the board for such attorney's services before the department and the board. If the court finds that the fee fixed by the director or by the board is inadequate for services performed before the department or board, or if the director or the board has fixed no fee for such services, then the court shall fix a fee for the attorney's services before the department, or the board, as the case may be, in addition to the fee fixed for the services in the court.

(b) If in a worker or beneficiary appeal the decision and order of the board is reversed or modified and if the accident fund or medical aid fund is affected by the litigation, or if in an appeal by the department or employer the worker or beneficiary's right to relief is sustained, or in an appeal by a worker involving a state fund employer with twenty-five employees or less, in which the department does not appear and defend, and the board order in favor of the employer is sustained, the attorney's fee fixed by the court, for services before the court only, and the fees of medical and other witnesses and the costs shall be payable out of the administrative fund of the department.

(c) In the case where the employer or other person or persons

aggrieved by the decision of the board appeal and the worker or beneficiary's right to relief is sustained, the attorneys' fees fixed by the court, for services before the court only, and the fees of medical and other witnesses and the costs shall be payable directly by the person or persons filing the appeal.

(d) In the case of self-insured employers, the attorney fees fixed by the court, for services before the court only, and the fees of medical and other witnesses and the costs shall be payable directly by the self-insured employer.

(2) In an appeal to the superior or appellate court involving the presumption established under RCW 51.32.185, the attorney's fee and costs shall be payable as set forth under RCW 51.32.185.

(3) In an appeal to the superior or appellate court involving the presumption established under section 6 of this act, the attorneys' fees and costs shall be payable as set forth under section 6 of this act.

NEW SECTION. Sec. 8. A new section is added to chapter 51.32 RCW to read as follows:

(1) Where an appealing party, other than the department or a self-insured employer, is ordered to pay attorneys' fees and costs and that party fails, refuses, or neglects to comply with the award, which has become final and is not subject to review or appeal, the director or any person entitled to compensation under the order may institute proceedings for injunctive or other appropriate relief for enforcement of the order. These proceedings may be instituted in the superior court for the county in which the claimant resides, or, if the claimant is not then a resident of this state, in the superior court for the county in which that party may be served with process.

(2) The court shall ensure compliance to the order by proper means, enjoining compliance upon the person obligated to comply with the compensation order. The court may issue such writs and processes as are necessary to carry out its orders.

(3) A proceeding under this section does not preclude other methods of enforcement provided for in this title.

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

On page 1, line 2 of the title, after "emergency;" strike the remainder of the title and insert "amending RCW 50.04.294, 50.20.010, 50.20.050, 50.29.021, and 51.52.130; adding new sections to chapter 51.32 RCW; creating a new section; and declaring an emergency."

MOTION

Senator Braun moved that the following floor amendment no. 132 by Senator Braun be adopted:

Beginning on page 1, line 3, strike all material through "title." on page 18, line 6 and insert the following:

NEW SECTION. Sec. 1. A new section is added to chapter 51.32 RCW to read as follows:

(1) For health care employees who are covered under this title, there exists a prima facie presumption that any infectious or contagious diseases that are transmitted through respiratory droplets or aerosols, or through contact with contaminated surfaces and are the subject of a public health emergency are occupational diseases under RCW 51.08.140 during a public health emergency.

(2) The health care employee must provide verification, as required by the department by rule, to the department and the self-insured employer that the employee has contracted the infectious or contagious disease that is the subject of the public health emergency.

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(3) This presumption of occupational disease may be rebutted by a preponderance of the evidence that:

(a) The exposure to the infectious or contagious disease which is the subject of the public health emergency occurred from other employment or nonemployment activities; or

(b) The employee was working from the employee's home, on leave from the employee's employment, or some combination thereof, for the period of quarantine consistent with recommended guidance from state and federal health officials for the disease immediately prior to the employee's injury, occupational disease, or period of incapacity that resulted from exposure to the disease which is the subject of the public health emergency.

(4) RCW 51.32.090(7) does not apply to an occupational disease under this section except that no worker shall receive compensation for or during the day on which the occupational disease was contracted. For the purposes of this subsection (4), the day on which the occupational disease was contracted is whichever date occurs first of the following:

(a) The date that the worker first missed work due to symptoms of the infectious or contagious disease;

(b) The date the worker was quarantined by a medical provider or public health official; or

(c) The date the worker received a positive test result confirming contraction of the infectious or contagious disease.

(5) If leave or similar benefits are paid to the worker as part of a federal or state program for these employees during the public health emergency, total temporary disability benefits are not payable for the same period of time covered by this federal or state program.

(6)(a) When a determination involving the presumption established in this section is appealed to the board of industrial insurance appeals and the final decision allows the claim of benefits, the board of industrial insurance appeals shall order that all reasonable costs of the appeal, including attorneys' fees and witness fees, be paid to the worker or the worker's beneficiary by the opposing party. If the opposing party is a state fund employer, the costs and fees are paid by the employer.

(b) When a determination involving the presumption established in this section is appealed to any court and the final decision allows the claim for benefits, the court shall order that all reasonable costs of appeal, including attorneys' fees and witness fees, be paid to the worker or the worker's beneficiary by the opposing party.

(c) When reasonable costs of the appeal must be paid by the department under this section in a state fund case, the costs shall be paid from the accident fund and charged to the costs of the claim. When calculating assessments due to the department for which total claim costs are the basis, self-insured employers and self-insurance hospital groups formed under RCW 51.14.150 and 51.14.160 may deduct the cost of payments made under this section from the total of all claim costs reported.

(7) Costs of the payments under this section shall not affect the experience rating of employers insured by the state fund. These costs shall be paid from the accident fund.

(8) As used in this section:

(a) "Health care employee" means an employee of any health care facility or other organization that provides emergency or medical services who may have direct contact with any person who has been exposed to or tested positive for any infectious or contagious diseases which are the subject of a public health emergency.

(b) "Health care facility" has the same meaning as in RCW 9A.50.010.

(c) "Public health emergency" means a declaration or order

concerning any infectious or contagious diseases, including a pandemic and is issued as follows:

(i) The president of the United States has declared a national or regional emergency that covers every county in the state of Washington; or

(ii) The governor of Washington has declared a state of emergency under RCW 43.06.010(12).

(9) The provisions of RCW 51.28.055 concerning time limits for filing claims for occupational disease apply to claims covered under this section.

NEW SECTION. Sec. 2. This act expires upon the expiration or termination of proclamation 20-05, and any subsequent orders extending or amending the proclamation, declaring a state of emergency on February 29, 2020, for all counties in Washington due to COVID-19."

Renumber the remaining section consecutively and correct any internal references accordingly.

On page 18, line 12, after "insert" strike all material through "51.52.130;" on line 13

On page 18, line 13, after "adding" strike "new sections" and insert "a new section"

On page 18, line 14, after "section;" insert "providing a contingent expiration date;"

Senators Braun and Mullet spoke in favor of adoption of the amendment to the striking amendment.

Senator Keiser spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 132 by Senator Braun on page 1, line 3 to the striking floor amendment no. 129.

The motion by Senator Braun did not carry and floor amendment no. 132 was not adopted by voice vote.

MOTION

Senator Braun moved that the following floor amendment no. 130 by Senator Braun be adopted:

On page 14, at the beginning of line 33, strike "clear and convincing" and insert "a preponderance of the"

Senators Braun and King spoke in favor of adoption of the amendment to the striking amendment.

Senator Keiser spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 130 by Senator Braun on page 14, line 33 to striking floor amendment no. 129.

The motion by Senator Braun did not carry and floor amendment no. 130 was not adopted by voice vote.

MOTION

Senator Braun moved that the following floor amendment no. 131 by Senator Braun be adopted:

On page 18, after line 10, insert the following:

NEW SECTION. Sec. 10. This act expires upon the expiration or termination of proclamation 20-05, and any subsequent orders extending or amending the proclamation, declaring a state of emergency on February 29, 2020, for all counties in Washington due to COVID-19."

On page 18, line 14, after "section;" insert "providing a contingent expiration date;"

Senator Braun spoke in favor of adoption of the amendment to the striking amendment.

Senator Robinson spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 131 by Senator Braun on page 14, line 33 to striking floor amendment no. 129.

The motion by Senator Braun did not carry and floor amendment no. 131 was not adopted by voice vote.

PARLIAMENTARY INQUIRY

Senator Schoesler: "I think you owe \$5.00 to charity Mr. President."

REPLY BY THE PRESIDENT

President Heck: "What did I say? You're in your office Senator Schoesler. For those keeping a running tab, it's the President \$25.00, Senator Gildon \$5.00."

The President declared the question before the Senate to be the adoption of striking floor amendment no. 129 by Senator Holy to Substitute Senate Bill No. 5190.

The motion by Senator Holy carried and striking floor amendment no. 129 as amended was adopted by voice vote.

MOTION

On motion of Senator Holy, the rules were suspended, Engrossed Substitute Senate Bill No. 5190 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Holy and Keiser spoke in favor of passage of the bill. Senator Braun spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5190.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5190 and the bill passed the Senate by the following vote: Yeas, 34; Nays, 15; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Fortunato, Frockt, Gildon, Hasegawa, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Van De Wege, Warnick, Wellman, Wilson, C. and Wilson, J.

Voting nay: Senators Braun, Brown, Dozier, Ericksen, Hawkins, Honeyford, Mullet, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner and Wilson, L.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5190, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5251, by Senators Schoesler, Brown, Dozier, Gildon, Honeyford, King and Rolfes

Modifying tax and revenue laws in a manner that is not estimated to affect state or local tax collections, by easing compliance burdens for taxpayers, clarifying ambiguities, making technical corrections, and providing administrative efficiencies.

MOTION

On motion of Senator Schoesler, Substitute Senate Bill No. 5251 was substituted for Senate Bill No. 5251 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Lovelett moved that the following floor amendment no. 135 by Senator Lovelett be adopted:

Beginning on page 26, line 12, strike all of section 14
Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 1, line 7 of the title, after "82.08.9999," strike "82.12.010,"

Senators Lovelett and Schoesler spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 135 by Senator Lovelett on page 26, line 12 to Substitute Senate Bill No. 5251.

The motion by Senator Lovelett carried and floor amendment no. 135 was adopted by voice vote.

MOTION

Senator Schoesler moved that the following floor amendment no. 096 by Senator Schoesler be adopted:

On page 34, beginning on line 1, strike all of section 19
Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 1, line 10 of the title, after "79.64.110;" strike all material through "RCW;"

Senator Schoesler spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 096 by Senator Schoesler on page 34, line 1 to Substitute Senate Bill No. 5251.

The motion by Senator Schoesler carried and floor amendment no. 096 was adopted by voice vote.

MOTION

On motion of Senator Schoesler, the rules were suspended, Engrossed Substitute Senate Bill No. 5251 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Schoesler and Rolfes spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5251.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5251 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Ericksen, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Liias, Lovelett, McCune, Mullet, Muzzall, Nguyen, Nobles, Padden, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5267 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 1; Excused, 0.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hobbs, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Wellman, Wilson, C. and Wilson, J.

Voting nay: Senators Braun, Brown, Dozier, Ericksen, Fortunato, Gildon, Hawkins, Holy, Honeyford, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick and Wilson, L.

Absent: Senator Van De Wege

ENGROSSED SUBSTITUTE SENATE BILL NO. 5251, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SUBSTITUTE SENATE BILL NO. 5267, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5267, by Senators Saldaña, Stanford, Conway, Das, Hasegawa, Keiser, Kuderer, and Wilson, C.

Requiring electrical licensing for electrical work associated with flipping property.

MOTION

On motion of Senator Randall, Senator Van De Wege was excused.

MOTION

On motion of Senator Liias, Substitute Senate Bill No. 5267 was substituted for Senate Bill No. 5267 and the substitute bill was placed on the second reading and read the second time.

SECOND READING

SENATE BILL NO. 5051, by Senators Pedersen, Dhingra, Darneille, Hunt, Kuderer, Liias, Lovelett, Mullet, Nguyen, Salomon, Stanford, Wellman, and Wilson, C.

Concerning state oversight and accountability of peace officers and corrections officers.

MOTION

Senator Braun moved that the following floor amendment no. 162 by Senator Braun be adopted:

MOTION

On page 3, after line 10, insert the following:
"(8) Nothing in this section shall be construed to require a person performing electrical work at his or her residence, farm, place of business, or on other personally owned property to obtain a license or certified electrician when the electrical work does not otherwise require inspection, a license, or a permit from the department under this chapter or rules promulgated under this chapter."

On motion of Senator Pedersen, Second Substitute Senate Bill No. 5051 was substituted for Senate Bill No. 5051 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Braun spoke in favor of adoption of the amendment.

Senator Short moved that the following floor amendment no. 144 by Senator Short be adopted:

WITHDRAWAL OF AMENDMENT

On motion of Senator Braun and without objection, floor amendment no. 162 by Senator Braun on page 3, line 10 to Substitute Senate Bill No. 5267 was withdrawn.

Beginning on page 1, line 12, strike all of sections 1 and 2
 Renumber the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 7, line 33, strike all of sections 6 through 25

MOTION

Renumber the remaining sections consecutively and correct any internal references accordingly.

On motion of Senator Liias, the rules were suspended, Substitute Senate Bill No. 5267 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

On page 37, beginning on line 10, strike all of section 27

On page 1, beginning on line 2 of the title, after "RCW" strike all material through "penalties" on line 10 and insert "43.101.030, 43.101.040, and 43.101.060; and creating a new section"

Senators Saldaña, Keiser and King spoke in favor of passage of the bill.

Senators Short and Padden spoke in favor of adoption of the amendment.

Senators Braun and Sheldon spoke against passage of the bill.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5267.

The President declared the question before the Senate to be the adoption of floor amendment no. 144 by Senator Short on page 1, line 12 to Second Substitute Senate Bill No. 5051.

ROLL CALL

The motion by Senator Short did not carry and floor

amendment no. 144 was not adopted by voice vote.

MOTION

Senator Wagoner moved that the following floor amendment no. 183 by Senator Wagoner be adopted:

On page 1, beginning on line 17, after "officer" strike "or corrections officer"

On page 2, beginning on line 7, after "peace officer" strike all material through "officer" on line 8 and insert "or reserve officer"

Senator Wagoner spoke in favor of adoption of the amendment.

WITHDRAWAL OF AMENDMENT

On motion of Senator Wagoner and without objection, floor amendment no. 183 by Senator Wagoner on page 1, line 17 to Second Substitute Senate Bill No. 5051 was withdrawn.

MOTION

Senator Warnick moved that the following floor amendment no. 165 by Senator Warnick be adopted:

On page 2, beginning on line 18, after "person" strike "elected, appointed," and insert "appointed"

Senators Warnick and Padden spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

MOTION

On motion of Senator Randall, Senator Hobbs was excused.

The President declared the question before the Senate to be the adoption of floor amendment no. 165 by Senator Warnick on page 2, line 18 to Second Substitute Senate Bill No. 5051.

The motion by Senator Warnick did not carry and floor amendment no. 165 was not adopted by voice vote.

PARLIAMENTARY INQUIRY

Senator Honeyford: "Thank you Mr. President. I am curious as to what order we are taking these amendments. It usually follows page and line and we seem to be jumping around, not following page and line order. Can you enlighten me please?"

REPLY BY THE PRESIDENT

President Heck: "We are following page and line order."

Senator Honeyford: "Well, I noticed that, and I don't have the amendment number but the amendment that spoke about the sheriff elected office, that is on page 22. We are now on page 2, and uh then we seem to have jumped to 1 and then we're back to 2 again. I don't know, I'm just not following."

President Heck: "The amendment to which you referred was page 2, not page 22."

Senator Honeyford: "Well thank you, then my notes are wrong. Thank you."

MOTION

Senator Short moved that the following floor amendment no. 142 by Senator Short be adopted:

On page 2, beginning on line 39, after "guilty" strike ", nolo contendere, or deferred sentence"

On page 3, line 5, after "guilty" strike "or nolo contendere"

Senator Short spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 142 by Senator Short on page 2, line 39 to Second Substitute Senate Bill No. 5051.

The motion by Senator Short did not carry and floor amendment no. 142 was not adopted by voice vote.

MOTION

Senator Honeyford moved that the following floor amendment no. 186 by Senator Honeyford be adopted:

On page 4, line 23, after "adult" strike "~~((prisoners))~~ persons" and insert "prisoners"

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 186 by Senator Honeyford on page 4, line 23 to Second Substitute Senate Bill No. 5051.

The motion by Senator Honeyford failed and floor amendment no. 186 was not adopted by voice vote.

MOTION

Senator Fortunato moved that the following floor amendment no. 188 by Senator Fortunato be adopted:

On page 4, beginning on line 33, after "based on" strike "a preponderance of the" and insert "clear, cogent, and convincing"

On page 29, beginning on line 17, after "commission is" strike all material through "preponderance of the" on line 18 and insert "clear, cogent, and convincing"

Senators Fortunato, King, Padden and Holy spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 188 by Senator Fortunato on page 4, line 33 to Second Substitute Senate Bill No. 5051.

The motion by Senator Fortunato failed and floor amendment no. 188 was not adopted by voice vote.

MOTION

Senator Holy moved that the following floor amendment no. 153 by Senator Holy be adopted:

On page 5, beginning on line 2, after "includes" strike ":"
(a) Specially" and insert "specially"

On page 5, beginning on line 4, after "10.93.020" strike all material through "responsibilities" on line 12

Correct any internal references accordingly.

Senators Holy and Rivers spoke in favor of adoption of the amendment.

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Senator Pedersen spoke against adoption of the amendment.
The President declared the question before the Senate to be the adoption of floor amendment no. 153 by Senator Holy on page 5, line 2 to Second Substitute Senate Bill No. 5051.

The motion by Senator Holy did not carry and floor amendment no. 153 was not adopted by voice vote.

MOTION

Senator Holy moved that the following floor amendment no. 154 by Senator Holy be adopted:

On page 5, line 4, after "10.93.020:" insert "and"
On page 5, beginning on line 6, after "10.93.020" strike all material through "responsibilities" on line 12
Correct any internal references accordingly.

Senator Holy spoke in favor of adoption of the amendment.
Senator Pedersen spoke against adoption of the amendment.
The President declared the question before the Senate to be the adoption of floor amendment no. 154 by Senator Holy on page 5, line 4 to Second Substitute Senate Bill No. 5051.
The motion by Senator Holy did not carry and floor amendment no. 154 was not adopted by voice vote.

MOTION

Senator Holy moved that the following floor amendment no. 155 by Senator Holy be adopted:

On page 5, line 24, after "certification" strike ".suspension."
On page 8, line 16, after "deny." strike "suspend."
On page 8, line 19, after "deny." strike "suspend."
On page 14, at the beginning of line 31, strike "suspended or"
On page 15, line 31, after "deny" strike ".suspend."
On page 17, line 26, after "deny" strike ".suspend."
On page 19, beginning on line 9, after "situation." strike all material through "circumstances." on line 11
On page 19, line 18, after "denial" strike ".suspension."
On page 21, line 30, after "for" strike "suspension or"
On page 21, beginning on line 33, after "(a)" strike all material through "(b)" on line 35
Reletter the remaining subsections consecutively and correct any internal references accordingly.
On page 22, line 10, after "commission to" strike "suspend or"
On page 22, line 37, after "denied" strike ".suspended."
On page 23, line 24, after "denied" strike ".suspended."
On page 25, line 18, after "certification." strike "suspension."
On page 32, at the beginning of line 19, strike "suspend or"
On page 33, line 5, after "in a" strike "suspension or"
On page 34, line 2, after "decertification" strike "or suspension"

Senator Holy spoke in favor of adoption of the amendment.
Senator Pedersen spoke against adoption of the amendment.
The President declared the question before the Senate to be the adoption of floor amendment no. 155 by Senator Holy on page 5, line 24 to Second Substitute Senate Bill No. 5051.
The motion by Senator Holy did not carry and floor amendment no. 155 was not adopted by voice vote.

MOTION

Senator Fortunato moved that the following floor amendment no. 187 by Senator Fortunato be adopted:

On page 5, beginning on line 27, after "corrections officers" strike all material through "United States" on line 30

Senator Fortunato spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.
The President declared the question before the Senate to be the adoption of floor amendment no. 187 by Senator Fortunato on page 5, line 27 to Second Substitute Senate Bill No. 5051.

The motion by Senator Fortunato did not carry and floor amendment no. 187 was not adopted by voice vote.

MOTION

Senator Short moved that the following floor amendment no. 143 by Senator Short be adopted:

On page 5, beginning on line 33, after "system" strike all material through "personnel" on line 36
Correct any internal references accordingly.

Senators Short and Pedersen spoke in favor of adoption of the amendment.
The President declared the question before the Senate to be the adoption of floor amendment no. 143 by Senator Short on page 5, line 33 to Second Substitute Senate Bill No. 5051.
The motion by Senator Short carried and floor amendment no. 143 was adopted by voice vote.

MOTION

Senator McCune moved that the following floor amendment no. 175 by Senator McCune be adopted:

Beginning on page 5, line 37, strike all of section 3 and insert the following:
"**Sec. 3.** RCW 43.101.030 and 2020 c 44 s 1 are each amended to read as follows:
The commission shall consist of (~~sixteen~~) eighteen members, who shall be selected as follows:
(1) The governor shall appoint two incumbent sheriffs and two incumbent chiefs of police.
(2) The governor shall appoint one officer at or below the level of first line supervisor from a county law enforcement agency and one officer at or below the level of first line supervisor from a municipal law enforcement agency. Each appointee under this subsection (2) shall have at least ten years experience as a law enforcement officer.
(3) The governor shall appoint one person employed in a county correctional system and one person employed in the state correctional system.
(4) The governor shall appoint one incumbent county prosecuting attorney or municipal attorney.
(5) The governor shall appoint one elected official of a local government.
(6) The governor shall appoint (~~two~~) four private citizens, (~~one~~) two from east of the crest of the Cascade mountains and (~~one~~) two from west of the crest of the Cascade mountains. At least one of the private citizens must be from a historically underrepresented community or communities.

(7) The governor shall appoint one tribal chair, board member, councilmember, or designee from a federally recognized tribe with an active certification agreement under RCW 43.101.157.
(8) The three remaining members shall be:
(a) The attorney general;

(b) The special agent in charge of the Seattle office of the federal bureau of investigation; and

(c) The chief of the state patrol."

On page 30, line 2, after "43.101.030" strike "(1) (f) through (h)" and insert "(6)"

On page 30, beginning on line 27, after "43.101.030" strike "(1) (f) through (h)" and insert "(6)"

On page 31, line 5, after "43.101.030" strike "(1) (f) through (h)" and insert "(6)"

Senator McCune spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 175 by Senator McCune on page 5, line 37 to Second Substitute Senate Bill No. 5051.

The motion by Senator McCune did not carry and floor amendment no. 175 was not adopted by voice vote.

MOTION

Senator Padden moved that the following floor amendment no. 151 by Senator Padden be adopted:

On page 6, line 1, after "~~(sixteen)~~" strike "seventeen" and insert "eighteen"

On page 6, line 7, after "(b)" strike "One officer" and insert "Two officers"

Senator Padden spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 151 by Senator Padden on page 6, line 1 to Second Substitute Senate Bill No. 5051.

The motion by Senator Padden did not carry and floor amendment no. 151 was not adopted by voice vote.

MOTION

Senator Rivers moved that the following floor amendment no. 171 by Senator Rivers be adopted:

On page 6, line 1, after "~~(sixteen)~~" strike "seventeen" and insert "eighteen"

On page 6, line 32, after "~~one~~," strike "and"

On page 6, line 38, after "jurisdiction," insert "and"

(i) One collective bargaining representative who represents peace officers;"

Senator Rivers spoke in favor of adoption of the amendment.

WITHDRAWAL OF AMENDMENT

On motion of Senator Rivers and without objection, floor amendment no. 171 by Senator Rivers on page 6, line 1 to Second Substitute Senate Bill No. 5051 was withdrawn.

MOTION

Senator Honeyford moved that the following floor amendment no. 189 by Senator Honeyford be adopted:

On page 6, line 1, after "~~(sixteen)~~" strike "seventeen" and insert "nineteen"

On page 6, line 4, after "(a)" strike "One incumbent sheriff(~~s~~)" and insert "Two incumbent sheriffs"

On page 6, beginning on line 4, after "and" strike "~~(two)~~ one

incumbent chief(~~s~~)" and insert "two incumbent chiefs"

Senator Honeyford spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 189 by Senator Honeyford on page 6, line 1 to Second Substitute Senate Bill No. 5051.

The motion by Senator Honeyford did not carry and floor amendment no. 189 was not adopted by voice vote.

MOTION

Senator McCune moved that the following floor amendment no. 173 by Senator McCune be adopted:

On page 6, beginning on line 37, after "~~(a)~~" strike all material through "jurisdiction" on line 38

Senator McCune spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 173 by Senator McCune on page 6, line 37 to Second Substitute Senate Bill No. 5051.

The motion by Senator McCune did not carry and floor amendment no. 173 was not adopted by voice vote.

MOTION

Senator Gildon moved that the following floor amendment no. 164 by Senator Gildon be adopted:

On page 14, line 8, after "employing" strike all material through "state" and insert "~~(county, city, or state)~~ Washington"

On page 14, beginning on line 13, after "less." strike all material through "agencies" on line 14 and insert "~~(County, city, and state law enforcement)~~ Employing agencies"

Senator Gildon spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 164 by Senator Gildon on page 14, line 8 to Second Substitute Senate Bill No. 5051.

The motion by Senator Gildon did not carry and floor amendment no. 164 was not adopted by voice vote.

MOTION

Senator Padden moved that the following floor amendment no. 149 by Senator Padden be adopted:

On page 15, at the beginning of line 1, strike all material through "information," on line 4

Beginning on page 34, line 19, strike all of section 23

Re-number the remaining sections consecutively and correct any internal references accordingly.

On page 1, at the beginning of line 7 of the title, strike "49.44.200,"

Senators Padden and Wagoner spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 149 by Senator Padden on page 15, line 1 to Second Substitute Senate Bill No. 5051.

The motion by Senator Padden did not carry and floor

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amendment no. 149 was not adopted by voice vote.

MOTION

Senator Muzzall moved that the following floor amendment no. 181 by Senator Muzzall be adopted:

On page 17, beginning on line 10, after "(c)" strike all material through "procedure" on line 15 and insert "Has been found by their employing agency to have, while uniformed, on duty, present, and observing another Washington law enforcement officer using force that is clearly beyond that which is objectively reasonable under the circumstances, failed to intervene to prevent, mitigate, and stop the use of unreasonable force"

Senator Muzzall spoke in favor of adoption of the amendment. Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 181 by Senator Muzzall on page 17, line 10 to Second Substitute Senate Bill No. 5051.

The motion by Senator Muzzall did not carry and floor amendment no. 181 was not adopted by voice vote.

WITHDRAWAL OF AMENDMENT

On motion of Senator Holy and without objection, floor amendment no. 156 by Senator Holy on page 17, line 26 to Second Substitute Senate Bill No. 5051 was withdrawn.

MOTION

Senator Conway moved that the following floor amendment no. 159 by Senator Conway be adopted:

On page 19, line 17, after "(6)" insert "The fact that the commission has suspended an officer's certification is not, in and of itself, a bar to the employing agency's maintenance of the officer's health and retirement benefits.
(7)"

Senators Conway and Pedersen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 159 by Senator Conway on page 19, line 17 to Second Substitute Senate Bill No. 5051.

The motion by Senator Conway carried and floor amendment no. 159 was adopted by voice vote.

MOTION

Senator Brown moved that the following floor amendment no. 168 by Senator Brown be adopted:

On page 22, at the beginning of line 4, strike all material through "event" on line 5

Senator Brown spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 168 by Senator Brown on page 22, line 4 to Second Substitute Senate Bill No. 5051.

The motion by Senator Brown did not carry and floor amendment no. 168 was not adopted by voice vote.

MOTION

Senator McCune moved that the following floor amendment no. 174 by Senator McCune be adopted:

On page 22, beginning on line 8, strike all of subsection (6) Renummer the remaining subsections consecutively and correct any internal references accordingly.

Senator McCune spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 174 by Senator McCune on page 22, line 8 to Second Substitute Senate Bill No. 5051.

The motion by Senator McCune did not carry and floor amendment no. 174 was not adopted by voice vote.

MOTION

Senator Holy moved that the following floor amendment no. 157 by Senator Holy be adopted:

On page 22, beginning on line 28, after "(9)" strike all material through "the" on line 29 and insert "The"

Senator Holy spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 157 by Senator Holy on page 22, line 28 to Second Substitute Senate Bill No. 5051.

The motion by Senator Holy did not carry and floor amendment no. 157 was not adopted by voice vote.

MOTION

Senator Warnick moved that the following floor amendment no. 166 by Senator Warnick be adopted:

On page 22, line 35, after "Any" strike "individual" and insert "commission staff, commission member, or duly authorized representative of a law enforcement agency"

Senators Warnick and Honeyford spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 166 by Senator Warnick on page 22, line 35 to Second Substitute Senate Bill No. 5051.

The motion by Senator Warnick did not carry and floor amendment no. 166 was not adopted by voice vote.

MOTION

Senator Rivers moved that the following floor amendment no. 170 by Senator Rivers be adopted:

On page 30, line 26, after "one" strike "civilian"

On page 31, line 4, after "one" strike "civilian"

Senator Rivers spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 170 by Senator Rivers on page 30, line 26 to Second Substitute Senate Bill No. 5051.

The motion by Senator Rivers did not carry and floor amendment no. 170 was not adopted by voice vote.

MOTION

Senator Pedersen moved that the following floor amendment no. 138 by Senator Pedersen be adopted:

On page 30, line 37, after "chief;" strike all material through "(iii)" on line 40 and insert "~~((iii)) one certified Washington peace officer who is at or below the level of first line supervisor, and who has at least ten years' experience as a peace officer; (iv))~~ (ii)"

On page 31, line 4, after "~~university~~)" strike "(iv)" and insert "(iii)"

On page 31, line 5, after "through (h);" insert "(iv) one member of the public who is not a prosecutor, defense attorney, judge, or law enforcement officer;"

Senator Pedersen spoke in favor of adoption of the amendment. The President declared the question before the Senate to be the adoption of floor amendment no. 138 by Senator Pedersen on page 30, line 37 to Second Substitute Senate Bill No. 5051.

The motion by Senator Pedersen carried and floor amendment no. 138 was adopted by voice vote.

MOTION

Senator Wilson, L. moved that the following floor amendment no. 146 by Senator Wilson, L. be adopted:

On page 32, beginning on line 13, after "(5)" strike all material through "(6)" on line 21

Renumber the remaining subsections consecutively and correct any internal references accordingly.

Senators Wilson, L. and Padden spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 146 by Senator Wilson, L. on page 32, line 13 to Second Substitute Senate Bill No. 5051.

The motion by Senator Wilson, L. did not carry and floor amendment no. 146 was not adopted by voice vote.

MOTION

Senator Wagoner moved that the following floor amendment no. 184 by Senator Wagoner be adopted:

On page 32, line 26, after "(7)" strike "Summary records" and insert "Records"

Senator Wagoner spoke in favor of adoption of the amendment. Senator Pedersen spoke against adoption of the amendment.

WITHDRAWAL OF AMENDMENT

On motion of Senator Wagoner and without objection, floor amendment no. 184 by Senator Wagoner on page 32, line 26 to Second Substitute Senate Bill No. 5051 was withdrawn.

MOTION

Senator Wagoner moved that the following floor amendment no. 185 by Senator Wagoner be adopted:

On page 32, at the beginning of line 33, strike all material

through "~~(b))~~" on line 35 and insert "the following records of the commission are confidential and exempt from public disclosure: (a) The contents of personnel action reports filed under RCW 43.101.135 or 43.101.136; (b)"

On page 32, beginning on line 36, after "commission" strike "as part of an initial background investigation"

Beginning on page 32, line 37, after "RCW 43.101.095" strike all material through "disclosure." on page 33, line 2, and insert "(5) or 43.101.096; and (c) all investigative files of the commission compiled in carrying out the responsibilities of the commission under this chapter."

Senator Wagoner spoke in favor of adoption of the amendment. Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 185 by Senator Wagoner on page 32, line 33 to Second Substitute Senate Bill No. 5051.

The motion by Senator Wagoner did not carry and floor amendment no. 185 was not adopted by voice vote.

MOTION

Senator Holy moved that the following floor amendment no. 158 by Senator Holy be adopted:

On page 34, beginning on line 11, strike all of section 22

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 1, line 6 of the title, after "43.101.400," strike "41.56.905,"

Senators Holy and Padden spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 158 by Senator Holy on page 34, line 11 to Second Substitute Senate Bill No. 5051.

The motion by Senator Holy did not carry and floor amendment no. 158 was not adopted by voice vote.

MOTION

Senator Short moved that the following floor amendment no. 145 by Senator Short be adopted:

On page 37, line 23, after "s 8;" insert "and"

On page 37, beginning on line 26, after "9" strike all material through "18" on line 28

On page 1, line 9 of the title, after "43.101.146," strike "43.101.156, and 43.101.180" and insert "and 43.101.156"

Senator Short spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 145 by Senator Short on page 37, line 23 to Second Substitute Senate Bill No. 5051.

The motion by Senator Short did not carry and floor amendment no. 145 was not adopted by voice vote.

MOTION

Senator Padden moved that the following floor amendment no. 148 by Senator Padden be adopted:

On page 37, after line 28, insert the following:

"NEW SECTION. Sec. 28. If any provision of this act or

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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 also invalid."

On page 1, line 8, after "creating" strike "a new section" and insert "new sections"

Senator Padden spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 148 by Senator Padden on page 37, line 28 to Second Substitute Senate Bill No. 5051.

The motion by Senator Padden did not carry and floor amendment no. 148 was not adopted by voice vote.

MOTION

On motion of Senator Liias, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

MOTION

Senator Brown moved that the following floor amendment no. 167 by Senator Brown be adopted:

On page 37, after line 28, insert the following:

"NEW SECTION. Sec. 28. The secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, section 1 of the state Constitution and the laws adopted to facilitate its operation."

On page 1, beginning on line 9 of the title, after "43.101.180;" strike "and prescribing penalties" and insert "prescribing penalties; and providing for submission of this act to a vote of the people"

Senators Brown, Rivers, Short and Padden spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

Senator Rivers demanded a roll call.

The President declared that one-sixth of the members supported the demand, and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator Brown on page 37, line 28 to Second Substitute Senate Bill No. 5051.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Brown and the amendment was not adopted by the following vote: Yeas, 20; Nays, 26; Absent, 1; Excused, 2.

Voting yea: Senators Braun, Brown, Dozier, Ericksen, Fortunato, Gildon, Hawkins, Holy, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, J. Wilson and L. Wilson

Voting nay: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Wellman and C. Wilson

Absent: Senator Honeyford

Excused: Senators Hobbs and Van De Wege.

MOTION

Senator Rivers moved that the following floor amendment no. 172 by Senator Rivers be adopted:

On page 37, after line 28, insert the following:

"NEW SECTION. Sec. 28. To the extent that any provision of this act conflicts with any local regulation, ordinance, collective bargaining agreement, memorandum of understanding, policy, or practice, the provisions of this act shall prevail and the conflicting provision shall be null and void. If the application of this section to a collective bargaining agreement in effect on the effective date of this section would result in impairing contractual obligations under that agreement, then the existing collective bargaining agreement prevails until such time as the agreement expires, renews, or is amended."

On page 1, line 8 of the title, after "creating" strike "a new section" and insert "new sections"

Senator Rivers spoke in favor of adoption of the amendment.

Senator Pedersen spoke against adoption of the amendment.

MOTION

On motion of Senator Wagoner, Senator Honeyford was excused.

The President declared the question before the Senate to be the adoption of floor amendment no. 172 by Senator Rivers on page 37, after line 28 to Second Substitute Senate Bill No. 5051.

The motion by Senator Rivers did not carry and floor amendment no. 172 was not adopted by voice vote.

MOTION

Senator Muzzall moved that the following floor amendment no. 182 by Senator Muzzall be adopted:

On page 37, after line 28, insert the following:

"NEW SECTION. Sec. 28. A new section is added to chapter 10.93 RCW to read as follows:

A general authority Washington law enforcement agency or limited authority Washington law enforcement agency is prohibited from considering the application for any office, place, position, or employment within the agency if the applicant has not provided the agency a document, voluntarily and knowingly signed by the applicant, that authorizes each prior employer to release any and all information relating to the applicant's employment, and further releasing and holding harmless the agency and each prior employer from any and all liability that may potentially result from the release and use of such information provided."

On page 1, at the beginning of line 8 of the title, insert "adding a new section to chapter 10.93 RCW;"

Senators Muzzall and Pedersen spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 182 by Senator Muzzall on page 37, after line 28 to Second Substitute Senate Bill No. 5051.

The motion by Senator Muzzall carried and floor amendment no. 182 was adopted by voice vote.

MOTION

Senator Braun moved that the following striking floor amendment no. 160 by Senator Braun be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 43.101.010 and 2020 c 119 s 2 are each amended to read as follows:

When used in this chapter:

(1) ~~((The term "commission"))~~ "Applicant" means an individual who has received a conditional offer of employment with a law enforcement or corrections agency.

(2) "Commission" means the Washington state criminal justice training commission.

~~((2) The term "boards" means the education and training standards boards, the establishment of which are authorized by this chapter.)~~

(3) ~~((The term "criminal"))~~ "Criminal justice personnel" means any person who serves ((in a county, city, state, or port commission agency engaged in crime prevention, crime reduction, or enforcement of the criminal law)) as a peace officer, reserve officer, or corrections officer.

(4) ~~((The term "law"))~~ "Law enforcement personnel" means any ((public employee or volunteer having as a primary function the enforcement of criminal laws in general or any employee or volunteer of, or any individual commissioned by, any municipal, county, state, or combination thereof, agency having as its primary function the enforcement of criminal laws in general as distinguished from an agency possessing peace officer powers, the primary function of which is the implementation of specialized subject matter areas. For the purposes of this subsection "primary function" means that function to which the greater allocation of resources is made)) person appointed or employed as a general authority Washington peace officer as defined in RCW 10.93.020.

(5) ~~((The term "correctional"))~~ "Correctional personnel" means any employee or volunteer who by state, county, municipal, or combination thereof, statute has the responsibility for the confinement, care, management, training, treatment, education, supervision, or counseling of those individuals whose civil rights have been limited in some way by legal sanction.

(6) "Chief for a day program" means a program in which commissioners and staff partner with local, state, and federal law enforcement agencies, hospitals, and the community to provide a day of special attention to chronically ill children. Each child is selected and sponsored by a law enforcement agency. The event, "chief for a day," occurs on one day, annually or every other year and may occur on the grounds and in the facilities of the commission. The program may include any appropriate honoring of the child as a "chief," such as a certificate swearing them in as a chief, a badge, a uniform, and donated gifts such as games, puzzles, and art supplies.

(7) ~~((A peace officer or corrections officer is "convicted"))~~ "Convicted" means at the time a plea of guilty, nolo contendere, or deferred sentence has been accepted, or a verdict of guilty or finding of guilt has been filed, notwithstanding the pendency of any future proceedings, including but not limited to sentencing, posttrial or postfact-finding motions and appeals. "Conviction" includes ((a deferral of sentence)) all instances in which a plea of guilty or nolo contendere is the basis for conviction, all proceedings in which there is a case disposition agreement, and ((also includes the)) any equivalent disposition by a court in a jurisdiction other than the state of Washington.

(8) ~~((a) "Discharged for disqualifying misconduct" has the~~

following meanings:

~~(i) A peace officer terminated from employment for: (A) Conviction of (I) any crime committed under color of authority as a peace officer, (II) any crime involving dishonesty or false statement within the meaning of Evidence Rule 609(a), (III) the unlawful use or possession of a controlled substance, or (IV) any other crime the conviction of which disqualifies a Washington citizen from the legal right to possess a firearm under state or federal law; (B) conduct that would constitute any of the crimes addressed in (a)(i)(A) of this subsection; or (C) knowingly making materially false statements during disciplinary investigations, where the false statements are the sole basis for the termination; or~~

~~(ii) A corrections officer terminated from employment for: (A) Conviction of (I) any crime committed under color of authority as a corrections officer, (II) any crime involving dishonesty or false statement within the meaning of Evidence Rule 609(a), or (III) the unlawful use or possession of a controlled substance; (B) conduct that would constitute any of the crimes addressed in (a)(ii)(A) of this subsection; or (C) knowingly making materially false statements during disciplinary investigations, where the false statements are the sole basis for the termination.~~

~~(b) A peace officer or corrections officer is "discharged for disqualifying misconduct" within the meaning of this subsection (8) under the ordinary meaning of the term and when the totality of the circumstances support a finding that the officer resigned in anticipation of discipline, whether or not the misconduct was discovered at the time of resignation, and when such discipline, if carried forward, would more likely than not have led to discharge for disqualifying misconduct within the meaning of this subsection (8).~~

~~(9) When used in context of proceedings referred to in this chapter, "final" means that the peace officer or corrections officer has exhausted all available civil service appeals, collective bargaining remedies, and all other such direct administrative appeals, and the officer has not been reinstated as the result of the action. Finality is not affected by the pendency or availability of state or federal administrative or court actions for discrimination, or by the pendency or availability of any remedies other than direct civil service and collective bargaining remedies.~~

~~((10)) "Peace officer" ((means any law enforcement personnel subject to the basic law enforcement training requirement of RCW 43.101.200 and any other requirements of that section, notwithstanding any waiver or exemption granted by the commission, and notwithstanding the statutory exemption based on date of initial hire under RCW 43.101.200)) has the same meaning as a general authority Washington peace officer as defined in RCW 10.93.020. Commissioned officers of the Washington state patrol, whether they have been or may be exempted by rule of the commission from the basic training requirement of RCW 43.101.200, are included as peace officers for purposes of this chapter. Fish and wildlife officers with enforcement powers for all criminal laws under RCW 77.15.075 are peace officers for purposes of this chapter.~~

~~((11))~~ (9) "Corrections officer" means any corrections agency employee whose primary job function is to provide for the custody, safety, and security of adult ~~((prisoners))~~ persons in jails and detention facilities ((and who is subject to the basic corrections training requirement of RCW 43.101.220 and any other requirements of that section, notwithstanding any waiver or exemption granted by the commission, and notwithstanding the statutory exemption based on date of initial hire under RCW 43.101.220. For the purpose of RCW 43.101.080, 43.101.096, 43.101.106, 43.101.116, 43.101.121, 43.101.126, 43.101.136, 43.101.146, 43.101.156, 43.101.380, and 43.101.400, "corrections)) in the state. "Corrections officer" does not include

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individuals employed by state agencies.

(10) "Finding" means a determination based on a preponderance of the evidence whether alleged misconduct occurred; did not occur; occurred, but was consistent with law and policy; or could neither be proven or disproven.

(11) "Reserve officer" means any person who does not serve as a peace officer of this state on a full-time basis, but who, when called by an agency into active service, is fully commissioned on the same basis as full-time officers to enforce the criminal laws of this state and includes specially commissioned Washington peace officers as defined in RCW 10.93.020.

(12) "Tribal police officer" means any person employed and commissioned by a tribal government to enforce the criminal laws of that government.

Sec. 2. RCW 43.101.020 and 1974 ex.s. c 94 s 2 are each amended to read as follows:

(1) There is hereby created and established a state commission to be known and designated as the Washington state criminal justice training commission.

(2) The purpose of ~~((such))~~ the commission shall be to ~~((provide programs and standards for the training of criminal justice personnel))~~ establish and administer standards and processes for certification and decertification of peace officers and corrections officers. The commission shall provide programs and training that enhance the integrity, effectiveness, and professionalism of peace officers and corrections officers. In carrying out its duties, the commission shall strive to promote public trust and confidence in every aspect of the criminal justice system.

Sec. 3. RCW 43.101.030 and 2020 c 44 s 1 are each amended to read as follows:

The commission shall consist of ~~((sixteen))~~ 18 members, who shall be selected as follows:

(1) The governor shall appoint two incumbent sheriffs and two incumbent chiefs of police.

(2) The governor shall appoint one officer at or below the level of first line supervisor from a county law enforcement agency and one officer at or below the level of first line supervisor from a municipal law enforcement agency. Each appointee under this subsection (2) shall have at least ten years experience as a law enforcement officer.

(3) The governor shall appoint one person employed in a county correctional system and one person employed in the state correctional system.

(4) The governor shall appoint one incumbent county prosecuting attorney or municipal attorney.

(5) The governor shall appoint one elected official of a local government.

(6) The governor shall appoint ~~((two))~~ four private citizens, ~~((one))~~ two from east of the crest of the Cascade mountains and ~~((one))~~ two from west of the crest of the Cascade mountains. At least one of the private citizens must be from a historically underrepresented community or communities.

(7) The governor shall appoint one tribal chair, board member, councilmember, or designee from a federally recognized tribe with an active certification agreement under RCW 43.101.157.

(8) The three remaining members shall be:

(a) The attorney general;

(b) The special agent in charge of the Seattle office of the federal bureau of investigation; and

(c) The chief of the state patrol.

Sec. 4. RCW 43.101.040 and 2009 c 549 s 5167 are each amended to read as follows:

All members appointed to the commission by the governor shall be appointed for terms of six years, such terms to commence

on July first, and expire on June thirtieth (~~((PROVIDED, That of the))~~). However, for members first appointed (~~((three shall be appointed for two year terms, three shall be appointed for four year terms, and three shall be appointed for six year terms: PROVIDED, FURTHER, That the terms of the two members appointed as incumbent police chiefs shall not expire in the same year nor shall the terms of the two members appointed as representing correctional systems expire in the same year nor shall the terms of the two members appointed as incumbent sheriffs expire in the same year))~~) as a result of chapter . . . Laws of 2021 (this act), the governor shall appoint members to terms ranging from two years to six years in order to stagger future appointments. Any member chosen to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member (~~((he or she))~~) the appointee is to succeed. Any member may be reappointed for additional terms.

Sec. 5. RCW 43.101.060 and 1999 c 97 s 2 are each amended to read as follows:

The commission shall elect a chair and a vice chair from among its members. ~~((Seven))~~ Nine members of the commission shall constitute a quorum. ~~((The governor shall summon the commission to its first meeting.~~

Meetings)) The commission shall meet at least quarterly. Additional meetings may be called by the chair and shall be called by ~~((him or her))~~ the chair upon the written request of six members.

Sec. 6. RCW 43.101.080 and 2020 c 119 s 13 are each amended to read as follows:

The commission shall have all of the following powers:

(1) ~~((To meet at such times and places as it may deem proper;~~

~~((2) To adopt any rules and regulations as it may deem necessary;~~

~~((3) To contract for services as it deems necessary in order to carry out its duties and responsibilities;~~

~~((4) To cooperate with and secure the cooperation of any department, agency, or instrumentality in state, county, and city government, and other commissions affected by or concerned with the business of the commission;~~

~~((5) To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it;~~

~~((6) To select and employ an executive director, and to empower him or her to perform such duties and responsibilities as it may deem necessary;~~

~~((7) To))~~ Conduct training, including the basic law enforcement academy and in-service training, and assume legal, fiscal, and program responsibility for all training conducted by the commission;

~~((8) To establish))~~ (2) Grant, deny, or revoke certification of peace officers and corrections officers under the provisions of this chapter;

(3) Grant, deny, or revoke certification of tribal police officers whose tribal governments have agreed to participate in the tribal police officer certification process;

(4) Related to its duties under subsections (2) and (3) of this section, provide for the comprehensive and timely investigation of complaints where necessary to ensure adherence to law, strengthen the integrity and accountability of peace officers and corrections officers, and maintain public trust and confidence in the criminal justice system in this state;

(5) Establish, by rule and regulation, curricula and standards for the training of criminal justice personnel where such curricula and standards are not prescribed by statute;

~~((9) To own))~~ (6) Own, establish, and operate, or ~~((to))~~ contract with other qualified institutions or organizations for the

operation of, training and education programs for criminal justice personnel ~~((and to purchase, lease, or otherwise acquire, subject to the approval of the department of enterprise services, a training facility or facilities necessary to the conducting of such programs;~~

~~((10) To establish, by rule and regulation, minimum curriculum standards for all training programs conducted for employed criminal justice personnel;~~

~~((11) To review);~~

~~((7) Review and approve or reject standards for instructors of training programs for criminal justice personnel, and ((to)) employ personnel from law enforcement agencies on a temporary basis as instructors without any loss of employee benefits to those instructors from those agencies;~~

~~((12) To direct)) (8) Direct the development of alternative, innovative, and interdisciplinary training techniques;~~

~~((13) To review)) (9) Review and approve or reject training programs conducted for criminal justice personnel and rules establishing and prescribing minimum training and education standards ((recommended by the training standards and education boards)), including continuing education;~~

~~((14) To allocate)) (10) Allocate financial resources among training and education programs conducted by the commission;~~

~~((15) To)) (11) Purchase, lease, or otherwise acquire, subject to the approval of the department of enterprise services, a training facility or facilities and allocate training facility space among training and education programs conducted by the commission;~~

~~((16) To issue)) (12) Issue diplomas certifying satisfactory completion of any training or education program conducted or approved by the commission to any person so completing such a program;~~

~~((17) To provide)) (13) Provide for the employment of such personnel as may be practical to serve as temporary replacements for any person engaged in a basic training program as defined by the commission;~~

~~((18) To establish)) (14) Establish rules and regulations ((recommended by the training standards and education boards)) prescribing minimum standards relating to physical, mental, and moral fitness which shall govern the recruitment of criminal justice personnel where such standards are not prescribed by statute or constitutional provision;~~

~~((19) To require county, city, or state)) (15) Require all Washington law enforcement and corrections agencies that make a conditional offer of employment to an applicant as a fully commissioned peace officer, a reserve officer, or a corrections officer to administer a background investigation ((including a check of criminal history, verification of immigrant or citizenship status as either a citizen of the United States of America or a lawful permanent resident, a psychological examination, and a polygraph test or similar assessment to each applicant, the results of which shall be used by the employer to determine the applicant's suitability for employment as a fully commissioned peace officer, a reserve officer, or a corrections officer. The background investigation, psychological examination, and the polygraph examination shall be administered in accordance with the requirements of RCW 43.101.095(2) for peace officers, and RCW 43.101.096 for corrections officers. The employing county, city, or state law enforcement agency may require that each peace officer, reserve officer, or corrections officer who is required to take a psychological examination and a polygraph or similar test pay a portion of the testing fee based on the actual cost of the test or four hundred dollars, whichever is less. County, city, and state law enforcement agencies may establish a payment plan if they determine that the peace officer, reserve officer, or corrections officer does not readily have the means to pay for his or her portion of the testing fee. This subsection does not apply to corrections officers employed by state agencies;~~

~~((20) To promote)) in accordance with the requirements of RCW 43.101.095 to determine the applicant's suitability for employment as a fully commissioned peace officer, reserve officer, or corrections officer;~~

~~((16) Appoint members of a hearings board as provided under RCW 43.101.380;~~

~~((17) Promote positive relationships between law enforcement and the ((citizens)) residents of the state of Washington ((by allowing)) through commissioners and staff ((to participate)) participation in the "chief for a day program." The executive director shall designate staff who may participate. In furtherance of this purpose, the commission may accept grants of funds and gifts and may use its public facilities for such purpose. At all times, the participation of commissioners and staff shall comply with chapter 42.52 RCW and chapter 292-110 WAC((- AH));~~

~~((18) Adopt, amend, repeal, and administer rules and regulations ((adopted by the commission shall be adopted and administered)) pursuant to the administrative procedure act, chapter 34.05 RCW, and the open public meetings act, chapter 42.30 RCW.~~

~~Sec. 7. RCW 43.101.085 and 2020 c 119 s 1 are each amended to read as follows:~~

~~In addition to its other powers granted under this chapter, the commission has authority and power to:~~

~~(1) ((Adopt, amend, or repeal rules as necessary to carry out this chapter;~~

~~((2)) Contract for services as it deems necessary in order to carry out its duties and responsibilities;~~

~~((2) Cooperate with and secure the cooperation of any department, agency, or instrumentality in state, county, and city government, and other commissions affected by or concerned with the business of the commission;~~

~~((3) Select and employ an executive director, and empower the director to perform such duties and responsibilities as the commission may deem necessary;~~

~~((4) Issue subpoenas and statements of charges, and administer oaths in connection with investigations, hearings, or other proceedings held under this chapter, or designate individuals to do so;~~

~~((3)) (5) Employ such staff as necessary for the implementation and enforcement of this chapter;~~

~~((6) Take or cause to be taken depositions and other discovery procedures as needed in investigations, hearings, and other proceedings held under this chapter;~~

~~((4) Appoint members of a hearings board as provided under RCW 43.101.380;~~

~~((5)) (7) Enter into contracts for professional services determined by the commission to be necessary for adequate enforcement of this chapter;~~

~~((6) Grant, deny, or revoke certification of peace officers and corrections officers under the provisions of this chapter;~~

~~((7) Designate individuals authorized to sign subpoenas and statements of charges under the provisions of this chapter;~~

~~((8) Employ such investigative, administrative, and clerical staff as necessary for the enforcement of this chapter; and~~

~~((9) Grant, deny, or revoke certification of tribal police officers whose tribal governments have agreed to participate in the tribal police officer certification process)) and~~

~~((8) Do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it.~~

~~Sec. 8. RCW 43.101.095 and 2018 c 32 s 5 are each amended to read as follows:~~

~~(1) As a condition of continuing employment ((as peace officers)), all Washington peace officers((-a) Shall timely obtain~~

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~~certification as peace officers, or timely obtain certification or exemption therefrom, by meeting all requirements of RCW 43.101.200, as that section is administered under the rules of the commission, as well by meeting any additional requirements under this chapter; and (b) shall maintain the basic certification as peace officers under this chapter)) and corrections officers are required to obtain certification as a peace officer or corrections officer or exemption therefrom and maintain certification as required by this chapter and the rules of the commission.~~

~~(2)(a) ((As a condition of continuing employment for any)) Any applicant who has been offered a conditional offer of employment as a ((fully commissioned)) peace officer or ((a)) reserve officer ((after July 24, 2005)) or offered a conditional offer of employment as a corrections officer after July 1, 2021, including any person whose certification has lapsed as a result of a break of more than ((twenty-four)) 24 consecutive months in the officer's service ((as a fully commissioned peace officer or reserve officer, the applicant shall)) must submit to a background investigation ((including a)) to determine the applicant's suitability for employment. Employing agencies may only make a conditional offer of employment pending completion of the background check and shall verify in writing to the commission that they have complied with all background check requirements prior to making any nonconditional offer of employment.~~

~~(b) The background check must include:~~

~~(i) A check of criminal history, ((verification)) any national decertification index, commission records, and all disciplinary records by any previous law enforcement or correctional employer, including complaints or investigations of misconduct and the reason for separation from employment. Law enforcement or correctional agencies that previously employed the applicant shall disclose employment information within 30 days of receiving a written request from the employing agency conducting the background investigation, including the reason for the officer's separation from the agency. Complaints or investigations of misconduct must be disclosed regardless of the result of the investigation or whether the complaint was unfounded;~~

~~(ii) Inquiry into whether the peace officer has any past or present affiliations with extremist organizations;~~

~~(iii) Verification of immigrant or citizenship status as either a citizen of the United States of America or a lawful permanent resident((-a));~~

~~(iv) A psychological examination((-and a)) administered by a psychiatrist licensed in the state of Washington pursuant to chapter 18.71 RCW or a psychologist licensed in the state of Washington pursuant to chapter 18.83 RCW, in compliance with standards established in rules of the commission;~~

~~(v) A polygraph or similar assessment ((as)) administered by ((the county, city, or state law enforcement agency, the results of which shall be used to determine the applicant's suitability for employment as a fully commissioned peace officer or a reserve officer.~~

~~(i) The background investigation including a check of criminal history shall be administered by the county, city, or state law enforcement agency that made the conditional offer of employment in compliance with standards established in the rules of the commission.~~

~~(ii) The psychological examination shall be administered by a psychiatrist licensed in the state of Washington pursuant to chapter 18.71 RCW or a psychologist licensed in the state of Washington pursuant to chapter 18.83 RCW, in compliance with standards established in rules of the commission.~~

~~(iii) The polygraph test shall be administered by an experienced polygrapher who is a graduate of a polygraph school accredited~~

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~~by the American polygraph association and in compliance with standards established in rules of the commission.~~

~~((iv)) an experienced professional with appropriate training and in compliance with standards established in rules of the commission; and~~

~~((vi)) Any other test or assessment to be administered as part of the background investigation shall be administered in compliance with standards established in rules of the commission.~~

~~((b)) (c) The employing ((county, city, or state)) Washington law enforcement agency may require that each ((peace officer or reserve officer)) person who is required to take a psychological examination and a polygraph or similar test pay a portion of the testing fee based on the actual cost of the test or ((four hundred dollars)) \$400, whichever is less. ((County, city, and state law enforcement)) Employing agencies may establish a payment plan if they determine that the ((peace officer or reserve officer)) person does not readily have the means to pay ((for his or her portion of)) the testing fee.~~

~~(3) ((The commission shall certify peace officers who have satisfied, or have been exempted by statute or by rule from, the basic training requirements of RCW 43.101.200 on or before January 1, 2002. Thereafter, the commission may revoke certification pursuant to this chapter.~~

~~(4)) The commission shall allow a peace officer or corrections officer to retain status as a certified peace officer or corrections officer as long as the officer: (a) Timely meets the basic ((law enforcement)) training requirements, or is exempted therefrom, in whole or in part, under RCW 43.101.200 or under rule of the commission; (b) timely meets or is exempted from any other requirements under this chapter as administered under the rules adopted by the commission; (c) is not denied certification by the commission under this chapter; and (d) has not had certification revoked by the commission.~~

~~((5)) (4) As a ((prerequisite to)) condition of certification, ((as well as a prerequisite to pursuit of a hearing under RCW 43.101.155-)) a peace officer or corrections officer must, on a form devised or adopted by the commission, authorize the release to the employing agency and commission of ((his or her)) the officer's personnel files, including disciplinary, termination ((papers)), civil or criminal investigation ((files)), or other ((files, papers-)) records or information that are directly related to a certification matter or decertification matter before the commission. The peace officer or corrections officer must also consent to and facilitate a review of the officer's social media accounts, however, consistent with RCW 49.44.200, the officer is not required to provide login information. The release of information may not be delayed, limited, or precluded by any agreement or contract between the officer, or the officer's union, and the entity responsible for the records or information.~~

~~((6)) (5) The employing agency and commission ((is)) are authorized to receive criminal history record information that includes nonconviction data for any purpose associated with employment ((by the commission)) or ((peace officer)) certification under this chapter. Dissemination or use of nonconviction data for purposes other than that authorized in this section is prohibited.~~

~~((7)) (6) For a national criminal history records check, the commission shall require fingerprints be submitted and searched through the Washington state patrol identification and criminal history section. The Washington state patrol shall forward the fingerprints to the federal bureau of investigation.~~

~~(7) Prior to certification, the employing agency shall certify to the commission that the agency has completed the background check, no information has been found that would disqualify the applicant from certification, and the applicant is suitable for~~

employment as a peace officer or corrections officer.

Sec. 9. RCW 43.101.105 and 2011 c 234 s 3 are each amended to read as follows:

(1) ~~(Upon)~~ To help prevent misconduct, enhance peace officer and corrections officer accountability, and enhance public trust and confidence in the criminal justice system, upon request by ~~(a peace)~~ an officer's employer or on its own initiative, the commission may deny or revoke certification of ~~(any peace)~~ an officer~~(, after)~~ as provided in this section. The commission shall provide the officer with written notice and a hearing, if a hearing is timely requested by the ~~(peace)~~ officer under RCW 43.101.155~~(, based upon a finding of one or more of the following conditions:~~

~~(a) The peace officer has failed to timely meet all requirements for obtaining a certificate of basic law enforcement training, a certificate of basic law enforcement training equivalency, or a certificate of exemption from the training;~~

~~(b) The peace officer has knowingly falsified or omitted material information on an application for training or certification to the commission;~~

~~(c) The peace officer has been convicted at any time of a felony offense under the laws of this state or has been convicted of a federal or out-of-state offense comparable to a felony under the laws of this state; except that if a certified peace officer was convicted of a felony before being employed as a peace officer, and the circumstances of the prior felony conviction were fully disclosed to his or her employer before being hired, the commission may revoke certification only with the agreement of the employing law enforcement agency;~~

~~(d) The peace officer has been discharged for disqualifying misconduct, the discharge is final, and some or all of the acts or omissions forming the basis for the discharge proceedings occurred on or after January 1, 2002;~~

~~(e) The peace officer's certificate was previously issued by administrative error on the part of the commission; or~~

~~(f) The peace officer has interfered with an investigation or action for denial or revocation of certificate by: (i) Knowingly making a materially false statement to the commission; or (ii) in any matter under investigation by or otherwise before the commission, tampering with evidence or tampering with or intimidating any witness). Notice and hearing are not required when a peace officer voluntarily surrenders certification.~~

(2) ~~(After July 24, 2005, the)~~ The commission may deny or revoke certification of a peace officer or corrections officer if the applicant or officer:

(a)(i) Has been convicted of:

(A) A felony offense;

(B) A gross misdemeanor domestic violence offense;

(C) An offense with sexual motivation as defined in RCW 9.94A.030;

(D) An offense under chapter 9A.44 RCW; or

(E) A federal or out-of-state offense comparable to an offense listed in (a)(i)(A) through (D) of this subsection (2); and

(ii)(A) The offense was not disclosed at the time of application for initial certification; or

(B) The officer was a certified peace officer or corrections officer at the time of the offense; and

(iii) The offense is not one for which the officer was granted a full and unconditional pardon; and

(iv) The offense was not adjudicated as a juvenile and the record sealed;

(b) Has been found by the employing agency to have used excessive force that was so egregious as to cause irreparable harm to the trust required to continue serving as a law enforcement officer;

(c) Has been found by his or her employing agency to have,

while uniformed, on duty, present, and observing another Washington law enforcement officer using force that is clearly beyond that which is objectively reasonable under the circumstances, failed to intervene to prevent, mitigate, and stop the use of unreasonable force;

(d) Has been terminated by the employing agency or found by a court to have knowingly made misleading, deceptive, untrue, or fraudulent representations in the practice of being a peace officer or corrections officer including, but not limited to, committing perjury, filing false reports, hiding evidence, or failing to report exonerating information. This subsection (2)(d) does not apply to representations made in the course and for the purposes of an undercover investigation; or

(e) Is prohibited from possessing weapons by state or federal law or by a permanent court order entered after a hearing.

(3) The commission shall deny certification to any applicant who ~~(has)~~ lost ~~(his or her)~~ certification as a result of a break in service of more than ~~(twenty-four)~~ 24 consecutive months if that applicant failed to comply with the requirements set forth in RCW 43.101.080~~((49))~~ (15) and 43.101.095(2).

(4) Any of the misconduct listed in subsection (2) of this section is grounds for denial or revocation of certification of a reserve officer to the same extent as applied to a peace officer.

Sec. 10. RCW 43.101.115 and 2001 c 167 s 4 are each amended to read as follows:

(1) A person denied a certification based upon dismissal or withdrawal from a basic law enforcement academy ~~(for any reason not also involving discharge for disqualifying misconduct)~~ is eligible for readmission and certification upon meeting standards established in rules of the commission, which rules may provide for probationary terms on readmission.

(2) A person whose certification is denied or revoked based upon prior administrative error of issuance, failure to cooperate, or interference with an investigation is eligible for certification upon meeting standards established in rules of the commission, ~~(rules which may)~~ which rules shall provide for a probationary period of certification in the event of reinstatement of eligibility.

(3) A person whose certification is denied or revoked based upon a felony criminal conviction or based upon conduct that constitutes a felony offense, or who voluntarily surrenders his or her certification, is not eligible for certification at any time.

(4) A ~~(peace officer)~~ person whose certification is denied or revoked ~~(based upon discharge for disqualifying misconduct, but not also based upon a felony criminal conviction,)~~ for reasons other than provided in subsections (1) through (3) of this section may, five years after the revocation or denial, petition the commission for reinstatement of the certificate or for eligibility for reinstatement. The commission ~~(shall)~~ may hold a hearing on the petition to consider reinstatement, and the commission may allow reinstatement based upon standards established in rules of the commission. If the certificate is reinstated or eligibility for certification is determined, the commission ~~(may)~~ shall establish a probationary period of certification.

(5) A ~~(peace officer)~~ person whose certification is revoked based solely upon a criminal conviction may petition the commission for reinstatement immediately upon a final judicial reversal of the conviction. The commission shall hold a hearing on request to consider reinstatement, and the commission may allow reinstatement based on standards established in rules of the commission. If the certificate is reinstated or if eligibility for certification is determined, the commission may establish a probationary period of certification.

(6) The commission's rules and decisions regarding reinstatement shall align with its responsibilities to enhance public trust and confidence in the law enforcement profession and correctional system.

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Sec. 11. RCW 43.101.135 and 2001 c 167 s 6 are each amended to read as follows:

(1)(a) Upon ~~((termination))~~ separation of a peace officer or corrections officer from an employing agency for any reason, including termination, resignation, or retirement, the agency ~~((of termination))~~ shall ~~((, within fifteen days of the termination,))~~ notify the commission within 15 days of the separation date on a personnel action report form provided by the commission. ~~((The agency of termination shall, upon))~~

(b) If the employer accepts an officer's resignation or retirement in lieu of termination, the employing agency shall report the reasons and rationale in the information provided to the commission, including the findings from any internal or external investigations into alleged misconduct.

(2) In addition to those circumstances under subsection (1) of this section and whether or not disciplinary proceedings have been concluded, the employing agency shall:

(a) Notify the commission within 15 days of learning of the occurrence of any death or serious injury caused by the use of force by an officer or any time an officer has been charged with a crime. Employing agencies must have a policy requiring officers to report any pending criminal charges and any conviction, plea, or other case disposition immediately to their agency; and

(b) Notify the commission within 15 days of an initial disciplinary decision by an employing agency for alleged behavior or conduct by an officer that is noncriminal and may result in revocation of certification pursuant to RCW 43.101.105.

(3) To better enable the commission to act swiftly and comprehensively when misconduct has occurred that may undermine public trust and confidence in law enforcement or the correctional system, if the totality of the circumstances support a conclusion that the officer resigned or retired in anticipation of discipline, whether or not the misconduct was discovered at the time, and when such discipline, if carried forward, would more likely than not have led to discharge, or if the officer was laid off when disciplinary investigation or action was imminent or pending which could have resulted in the officer's suspension or discharge, the employing agency shall conduct and complete the investigation and provide all relevant information to the commission as if the officer were still employed by the agency.

(4) Upon request of the commission, the employing agency shall provide such additional documentation or information as the commission deems necessary to determine whether the ~~((termination))~~ separation or event provides grounds for revocation ~~((under RCW 43.101.105)).~~

(5) At its discretion, the commission may:

(a) Initiate decertification proceedings upon conclusion of any investigation or disciplinary proceedings initiated by the employing agency; or

(b) Wait to proceed until any investigation, disciplinary proceedings, or appeals through the employing agency are final before taking action. Where a decertification decision requires a finding by the employing agency, the commission shall await notification of a finding by the employing agency before beginning the decertification process.

(6) An employing agency may not enter into any agreement or contract with an officer, or union:

(a) Not to report conduct, delay reporting, or preclude disclosure of any relevant information, including a promise not to check the box on a commission notice that indicates the officer may have committed misconduct, in exchange for allowing an officer to resign or retire or for any other reason; or

(b) That allows the agency to destroy or remove any personnel record while the officer is employed and for 10 years thereafter. Such records must include all misconduct and equal employment

opportunity complaints, progressive discipline imposed including written reprimands, supervisor coaching, suspensions, involuntary transfers, investigatory files, and other disciplinary appeals and litigation records.

(7) The commission shall maintain ~~((these notices))~~ all information provided pursuant to this section in a permanent file ~~((, subject to RCW 43.101.400)).~~

(8) The commission may impose a civil penalty not to exceed \$10,000 for the failure by an officer or an employing agency to timely and accurately report information pursuant to this section.

Sec. 12. RCW 43.101.145 and 2001 c 167 s 8 are each amended to read as follows:

~~((A law enforcement officer or duly authorized representative of a law enforcement agency))~~ (1) Any commission staff, commission member, or a duly authorized representative of a law enforcement agency may submit a written complaint to the commission ~~((charging))~~ stating that ~~((a peace))~~ an officer's certificate should be denied or revoked, and specifying the grounds for the ~~((charge))~~ complaint. Filing a complaint does not make a complainant a party to the commission's action.

(2) The commission has sole discretion whether to investigate a complaint, and the commission has sole discretion whether to investigate matters relating to certification, denial of certification, or revocation of certification on any other basis, without restriction as to the source or the existence of a complaint. All complaints must be resolved with a written determination, regardless of the decision to investigate.

(3) The commission may initiate an investigation in any instance where there is a pattern of complaints or other actions that may not have resulted in a formal adjudication of wrongdoing, but when considered together demonstrate conduct that would constitute a violation of RCW 43.101.105. The commission must consider an officer's job duties and assignment in determining what constitutes a pattern.

(4) A person who files a complaint in good faith under this section is immune from suit or any civil action related to the filing or the contents of the complaint.

Sec. 13. RCW 43.101.155 and 2001 c 167 s 9 are each amended to read as follows:

(1) If the commission determines, upon investigation, that there is ~~((probable))~~ cause to believe that a peace officer's or corrections officer's certification should be denied or revoked under RCW 43.101.105, the commission must prepare and serve upon the officer a statement of charges. Service on the officer must be by mail or by personal service on the officer unless the officer has consented to service in some other manner, including electronic notification. Notice of the charges must also be mailed to or otherwise served upon the officer's agency of ~~((termination))~~ separation and any current ~~((law enforcement))~~ agency employer. The statement of charges must be accompanied by a notice that to receive a hearing on the denial or revocation, the officer must, within ~~((sixty))~~ 60 days of ~~((communication of))~~ the statement of charges, request a hearing before the hearings ~~((board))~~ panel appointed under RCW 43.101.380. Failure of the officer to request a hearing within the ~~((sixty day))~~ 60-day period constitutes a default, whereupon the commission may enter an order under RCW 34.05.440.

(2) If a hearing is requested, the officer is required to provide an email address that constitutes the officer's legal address for purposes of any subsequent communication from the commission. Unless otherwise agreed to by the mutual agreement of the parties or for good cause, within two weeks of receipt of the officer's request for a hearing, the commission shall set a date ~~((of))~~ for the hearing, which must be ~~((scheduled not earlier than ninety days nor later than one hundred eighty days after~~

~~communication of the statement of charges to the officer; the one hundred eighty day period may be extended on mutual agreement of the parties or for good cause)) held within 90 days thereafter. ((The)) On the date the hearing is set, the commission shall ((give written)) transmit electronic notice of the hearing ((at least twenty days prior to the hearing)) to the officer, and provide public notice on the commission website, specifying the time, date, and place of hearing.~~

Sec. 14. RCW 43.101.157 and 2006 c 22 s 2 are each amended to read as follows:

(1) Tribal governments may voluntarily request certification for their police officers. Tribal governments requesting certification for their police officers must enter into a written agreement with the commission. The agreement must require the tribal law enforcement agency and its officers to comply with all of the requirements for granting, denying, and revoking certification as those requirements are applied to peace officers certified under this chapter and the rules of the commission.

(2) Officers making application for certification as tribal police officers shall meet the requirements of this chapter and the rules of the commission as those requirements are applied to certification of peace officers. Application for certification as a tribal police officer shall be accepted and processed in the same manner as those for certification of peace officers.

~~((3) For purposes of certification, "tribal police officer" means any person employed and commissioned by a tribal government to enforce the criminal laws of that government.))~~

Sec. 15. RCW 43.101.230 and 1981 c 134 s 1 are each amended to read as follows:

~~((Indian tribe))~~ Tribal police officers and employees who are engaged in law enforcement activities and who do not qualify as "criminal justice personnel" or "law enforcement personnel" under RCW 43.101.010~~((as now law or hereafter amended,))~~ may be provided training under this chapter if: (a) The tribe is recognized by the federal government, and (b) the tribe pays to the commission the full cost of providing such training. The commission shall place all money received under this section into the criminal justice training account.

Sec. 16. RCW 43.101.390 and 2001 c 167 s 11 are each amended to read as follows:

(1) The commission~~((its boards,))~~ and individuals acting on behalf of the commission ((and its boards)) are immune from suit in any civil or criminal action contesting or based upon proceedings or other official acts performed in the course of their duties in the administration and enforcement of this chapter.

(2) Without limiting the generality of the foregoing, the commission and individuals acting on behalf of the commission are immune from suit in any civil action based on the certification, denial of certification, or decertification of peace officers, reserve officers, or corrections officers.

Sec. 17. RCW 43.101.420 and 2009 c 19 s 1 are each amended to read as follows:

(1) The commission shall offer a training session on personal crisis recognition and crisis intervention services to criminal justice, ~~((correctional personnel))~~ corrections, and other public safety employees. The training shall be implemented by the commission in consultation with appropriate public and private organizations that have expertise in crisis referral services and in the underlying conditions leading to the need for crisis referral.

(2) The training shall consist of a minimum of one hour of classroom or internet instruction, and shall include instruction on the following subjects:

(a) The description and underlying causes of problems that may have an impact on the personal and professional lives of public safety employees, including mental health issues, chemical dependency, domestic violence, financial problems, and other

personal crises;

(b) Techniques by which public safety employees may recognize the conditions listed in (a) of this subsection and understand the need to seek assistance and obtain a referral for consultation and possible treatment; and

(c) A listing of examples of public and private crisis referral agencies available to public safety employees.

(3) The training developed by the commission shall be made available by the commission to all employees of state and local agencies that perform public safety duties. The commission may charge a reasonable fee to defer the cost of making the training available.

Sec. 18. RCW 34.12.035 and 1984 c 141 s 6 are each amended to read as follows:

The chief administrative law judge shall designate an administrative law judge with subject matter expertise to serve, as the need arises, as presiding officer in ~~((state));~~

(1) State patrol disciplinary hearings conducted under RCW 43.43.090; and

(2) Decertification hearings conducted under RCW 43.101.380.

Sec. 19. RCW 40.14.070 and 2011 c 60 s 18 are each amended to read as follows:

(1)(a) ~~((County))~~ Other than those records detailed in subsection (4) of this section, county, municipal, and other local government agencies may request authority to destroy noncurrent public records having no further administrative or legal value by submitting to the division of archives and records management lists of such records on forms prepared by the division. The archivist, a representative appointed by the state auditor, and a representative appointed by the attorney general shall constitute a committee, known as the local records committee, which shall review such lists and which may veto the destruction of any or all items contained therein.

(b) A local government agency, as an alternative to submitting lists, may elect to establish a records control program based on recurring disposition schedules recommended by the agency to the local records committee. The schedules are to be submitted on forms provided by the division of archives and records management to the local records committee, which may either veto, approve, or amend the schedule. Approval of such schedule or amended schedule shall be by unanimous vote of the local records committee. Upon such approval, the schedule shall constitute authority for the local government agency to destroy the records listed thereon, after the required retention period, on a recurring basis until the schedule is either amended or revised by the committee.

(2)(a) Except as otherwise provided by law, and other than the law enforcement records detailed in subsection (4) of this section, no public records shall be destroyed until approved for destruction by the local records committee. Official public records shall not be destroyed unless:

(i) The records are six or more years old;

(ii) The department of origin of the records has made a satisfactory showing to the state records committee that the retention of the records for a minimum of six years is both unnecessary and uneconomical, particularly where lesser federal retention periods for records generated by the state under federal programs have been established; or

(iii) The originals of official public records less than six years old have been copied or reproduced by any photographic, photostatic, microfilm, miniature photographic, or other process approved by the state archivist which accurately reproduces or forms a durable medium for so reproducing the original.

An automatic reduction of retention periods from seven to six years for official public records on record retention schedules

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existing on June 10, 1982, shall not be made, but the same shall be reviewed individually by the local records committee for approval or disapproval of the change to a retention period of six years.

The state archivist may furnish appropriate information, suggestions, and guidelines to local government agencies for their assistance in the preparation of lists and schedules or any other matter relating to the retention, preservation, or destruction of records under this chapter. The local records committee may adopt appropriate regulations establishing procedures to be followed in such matters.

Records of county, municipal, or other local government agencies, designated by the archivist as of primarily historical interest, may be transferred to a recognized depository agency.

(b)(i) Records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenders contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020 that are not required in the current operation of the law enforcement agency or for pending judicial proceedings shall, following the expiration of the applicable schedule of the law enforcement agency's retention of the records, be transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval. Upon electronic retention of any document, the association shall be permitted to destroy the paper copy of the document.

(ii) Any sealed record transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval, including records sealed after transfer, shall be electronically retained in such a way that the record is clearly marked as sealed.

(iii) The Washington association of sheriffs and police chiefs shall be permitted to destroy both the paper copy and electronic record of any offender verified as deceased.

(c) Any record transferred to the Washington association of sheriffs and police chiefs pursuant to (b) of this subsection shall be deemed to no longer constitute a public record pursuant to RCW 42.56.010 and shall be exempt from public disclosure. Such records shall be disseminated only to criminal justice agencies as defined in RCW 10.97.030 for the purpose of determining if a sex offender met the criteria of a sexually violent predator as defined in chapter 71.09 RCW and the end-of-sentence review committee as defined by RCW 72.09.345 for the purpose of fulfilling its duties under RCW 71.09.025 and 9.95.420.

Electronic records marked as sealed shall only be accessible by criminal justice agencies as defined in RCW 10.97.030 who would otherwise have access to a sealed paper copy of the document, the end-of-sentence review committee as defined by RCW 72.09.345 for the purpose of fulfilling its duties under RCW 71.09.025 and 9.95.420, and the system administrator for the purposes of system administration and maintenance.

(3) Except as otherwise provided by law, county, municipal, and other local government agencies may, as an alternative to destroying noncurrent public records having no further administrative or legal value, donate the public records to the state library, local library, historical society, genealogical society, or similar society or organization.

Public records may not be donated under this subsection unless:

- (a) The records are seventy years old or more;
 - (b) The local records committee has approved the destruction of the public records; and
 - (c) The state archivist has determined that the public records have no historic interest.
- (4) Personnel records for any peace officer or corrections

officer must be retained for the duration of the officer's employment and a minimum of 10 years thereafter. Such records include all misconduct and equal employment opportunity complaints, progressive discipline imposed including written reprimands, supervisor coaching, suspensions, involuntary transfers, other disciplinary appeals and litigation records, and any other records needed to comply with the requirements set forth in RCW 43.101.095 and 43.101.135.

Sec. 20. RCW 43.101.380 and 2020 c 119 s 10 are each amended to read as follows:

(1) The procedures governing adjudicative proceedings before agencies under chapter 34.05 RCW, the administrative procedure act, govern hearings before the commission and govern all other actions before the commission unless otherwise provided in this chapter. The standard of proof in actions before the commission is ~~((clear, cogent, and convincing))~~ a preponderance of the evidence.

(2) In all hearings requested under RCW 43.101.155 ~~((or 43.101.156)), an administrative law judge appointed under chapter 34.12 RCW shall be the presiding officer, shall make all necessary rulings in the course of the hearing, and shall issue a proposed recommendation, but is not entitled to vote. In addition, a five-member hearings panel shall ((both)) hear the case and make the commission's final administrative decision. ((Members of the commission may, but need not, be appointed to the hearings panels.))~~

~~((3))~~ (3) The commission shall appoint ((as follows two or more panels)) a panel to hear certification actions as follows:

(a) When a hearing is requested in relation to a certification action of a Washington peace officer ~~((who is not a peace officer of the Washington state patrol)), the commission shall appoint to the panel: (i) One police chief((; ((ii) one)) or sheriff from an agency not a current or past employer of the peace officer; (((((iii) two))) (ii) one certified Washington peace officer((s)) who ((are)) is at or below the level of first line supervisor((; ((one of whom is from a city or county law enforcement agency;)) and who ((have)) has at least ten years' experience as a peace officer((s)); ((and ((iv) one person who is not currently a peace officer and who represents a community college or four-year college or university)) (iii) one member of the commission as appointed under RCW 43.101.030 (1) through (5); (iv) one member of the public who is not a prosecutor, defense attorney, judge, or law enforcement officer; and (v) one person with expertise and background in police accountability who is not a current or former peace officer or corrections officer.~~

~~((b))~~ (b) ((When a hearing is requested in relation to a certification action of a peace officer of the Washington state patrol, the commission shall appoint to the panel: (i) Either one police chief or one sheriff; (ii) one administrator of the state patrol; (iii) one certified Washington peace officer who is at or below the level of first line supervisor, who is not a state patrol officer, and who has at least ten years' experience as a peace officer; (iv) one state patrol officer who is at or below the level of first line supervisor, and who has at least ten years' experience as a peace officer; and (v) one person who is not currently a peace officer and who represents a community college or four-year college or university.

~~((c))~~ (c) When a hearing is requested in relation to a certification action of a Washington corrections officer, the commission shall appoint to the panel: (i) ((Two heads of)) A person who heads either a city or county corrections agency or facility or of a Washington state department of corrections facility; (ii) ((two)) one corrections officer((s)) who ((are)) is at or below the level of first line supervisor((; ((who are from city, county, or state corrections agencies;)) and who ((have)) has at least ten years' experience as a corrections officer((s)); (iii) one member of the

commission as appointed under RCW 43.101.030 (1) through (5); (iv) one member of the public who is not a prosecutor, defense attorney, judge, or law enforcement officer; and ~~((iii))~~ (v) one person with expertise and background in police accountability who is not ~~((currently))~~ a current or former peace officer or corrections officer ~~((and who represents a community college or four-year college or university)).~~

~~((d))~~ (c) When a hearing is requested in relation to a certification action of a tribal police officer, the commission shall appoint to the panel (i) ~~((either one police chief or one sheriff; (ii))~~ one tribal police chief; ~~((iii))~~ (ii) one certified Washington peace officer who is at or below the level of first line supervisor, and who has at least ten years' experience as a peace officer; ~~((iv))~~ (iii) one tribal police officer who is at or below the level of first line supervisor, and who has at least ten years' experience as a peace officer; ~~((and (v) one person who is not currently a peace officer and who represents a community college or four-year college or university))~~ (iv) one member of the commission as appointed under RCW 43.101.030 (1) through (5); and (v) one person with expertise and background in police accountability who is not a current or former peace officer or corrections officer.

~~((e))~~ (d) Persons appointed to hearings panels by the commission shall, in relation to any certification action on which they sit, have the powers, duties, and immunities, and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular commission members.

~~((3) Where the charge upon which revocation or denial is based is that a peace officer or corrections officer was "discharged for disqualifying misconduct," and the discharge is "final," within the meaning of RCW 43.101.105(1)(d) or 43.101.106(4), and the officer received a civil service hearing or arbitration hearing culminating in an affirming decision following separation from service by the employer, the hearings panel may revoke or deny certification if the hearings panel determines that the discharge occurred and was based on disqualifying misconduct;))~~ (4) In decertification matters where there was a due process hearing or a disciplinary appeals hearing following an investigation by a law enforcement agency, or a criminal hearing regarding the alleged misconduct, the hearings panel need not redetermine the underlying facts but may make ~~((this))~~ its determination based solely on review of the records and decision relating to ~~((the employment separation))~~ those proceedings and any investigative or summary materials from the administrative law judge, legal counsel, and commission staff. However, the hearings panel may, in its discretion, consider additional evidence to determine whether ~~((such a discharge))~~ misconduct occurred ~~((and was based on such disqualifying misconduct))~~. The hearings panel shall, upon written request by the subject peace officer or corrections officer, allow the peace officer or corrections officer to present additional evidence of extenuating circumstances.

~~((Where the charge upon which revocation or denial of certification is based is that a peace officer or corrections officer "has been convicted at any time of a felony offense" within the meaning of RCW 43.101.105(1)(e) or 43.101.106(3), the hearings panel shall revoke or deny certification if it determines that the peace officer or corrections officer was convicted of a felony. The hearings panel need not redetermine the underlying facts but may make this determination based solely on review of the records and decision relating to the criminal proceeding. However, the hearings panel shall, upon the panel's determination of relevancy, consider additional evidence to determine whether the peace officer or corrections officer was convicted of a felony.~~

~~Where the charge upon which revocation or denial is based is under RCW 43.101.105(1) (a), (b), (e), or (f) or 43.101.106 (1), (2), (5), or (6), the hearings panel shall determine the underlying facts relating to the charge upon which revocation or denial of~~

~~certification is based.~~

~~(4))~~ (5) The commission is authorized to proceed regardless of whether an arbitrator or other appellate decision maker overturns the discipline imposed by the officer's employing agency or whether the agency settles an appeal. No action or failure to act by a law enforcement agency or corrections agency or decision resulting from an appeal of that action precludes action by the commission to revoke an officer's certificate.

(6) The hearings, but not the deliberations of the hearings panel, are open to the public. The transcripts, admitted evidence, and written decisions of the hearings panel on behalf of the commission are not confidential or exempt from public disclosure, and are subject to subpoena and discovery proceedings in civil actions.

(7) Summary records of hearing dispositions must be made available on an annual basis on a public website.

(8) The commission's final administrative decision is subject to judicial review under RCW 34.05.510 through 34.05.598.

Sec. 21. RCW 43.101.400 and 2020 c 119 s 12 are each amended to read as follows:

(1) Except as provided under subsection (2) of this section, the following records of the commission are confidential and exempt from public disclosure: (a) The contents of personnel action reports filed under RCW 43.101.135 or 43.101.136; (b) all files, papers, and other information obtained by the commission pursuant to RCW 43.101.095~~((5) or 43.101.096))~~ (2) and (4); and (c) all investigative files of the commission compiled in carrying out the responsibilities of the commission under this chapter. Such records are not subject to public disclosure, subpoena, or discovery proceedings in any civil action, except as provided in ~~((subsection (5) of this section))~~ RCW 43.101.380(6) or which become part of the record in a decertification matter.

(2) Records which are otherwise confidential and exempt under subsection (1) of this section may be reviewed and copied: (a) By the officer involved or the officer's counsel or authorized representative, who may review the officer's file and may submit any additional exculpatory or explanatory evidence, statements, or other information, any of which must be included in the file; (b) by a duly authorized representative of (i) the agency of termination, or (ii) a current employing law enforcement or corrections agency, which may review and copy its employee-officer's file; or (c) by a representative of or investigator for the commission.

(3) Records which are otherwise confidential and exempt under subsection (1) of this section may also be inspected at the offices of the commission by a duly authorized representative of a law enforcement or corrections agency considering an application for employment by a person who is the subject of a record. A copy of records which are otherwise confidential and exempt under subsection (1) of this section may later be obtained by an agency after it hires the applicant. In all other cases under this subsection, the agency may not obtain a copy of the record.

(4) Upon a determination that a complaint is without merit, that a personnel action report filed under RCW 43.101.135 does not merit action by the commission, or that a matter otherwise investigated by the commission does not merit action, the commission shall purge records addressed in subsection (1) of this section.

~~(5) ((The hearings, but not the deliberations, of the hearings board are open to the public. The transcripts, admitted evidence, and written decisions of the hearings board on behalf of the commission are not confidential or exempt from public disclosure, and are subject to subpoena and discovery proceedings in civil actions.~~

~~(6))~~ Any decertification must be reported to the national decertification index.

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(6) Every individual, legal entity, and agency of federal, state, or local government is immune from civil liability, whether direct or derivative, for providing information to the commission in good faith.

Sec. 22. RCW 41.56.905 and 1983 c 287 s 5 are each amended to read as follows:

The provisions of this chapter are intended to be additional to other remedies and shall be liberally construed to accomplish their purpose. Except as provided in RCW 53.18.015, 43.101.095, and 43.101.135, if any provision of this chapter conflicts with any other statute, ordinance, rule or regulation of any public employer, the provisions of this chapter shall control.

Sec. 23. RCW 49.44.200 and 2013 c 330 s 1 are each amended to read as follows:

(1) An employer may not:

(a) Request, require, or otherwise coerce an employee or applicant to disclose login information for the employee's or applicant's personal social networking account;

(b) Request, require, or otherwise coerce an employee or applicant to access his or her personal social networking account in the employer's presence in a manner that enables the employer to observe the contents of the account;

(c) Compel or coerce an employee or applicant to add a person, including the employer, to the list of contacts associated with the employee's or applicant's personal social networking account;

(d) Request, require, or cause an employee or applicant to alter the settings on his or her personal social networking account that affect a third party's ability to view the contents of the account; or

(e) Take adverse action against an employee or applicant because the employee or applicant refuses to disclose his or her login information, access his or her personal social networking account in the employer's presence, add a person to the list of contacts associated with his or her personal social networking account, or alter the settings on his or her personal social networking account that affect a third party's ability to view the contents of the account.

(2) This section does not apply to an employer's request or requirement that an employee share content from his or her personal social networking account if the following conditions are met:

(a) The employer requests or requires the content to make a factual determination in the course of conducting an investigation;

(b) The employer undertakes the investigation in response to receipt of information about the employee's activity on his or her personal social networking account;

(c) The purpose of the investigation is to: (i) Ensure compliance with applicable laws, regulatory requirements, or prohibitions against work-related employee misconduct; or (ii) investigate an allegation of unauthorized transfer of an employer's proprietary information, confidential information, or financial data to the employee's personal social networking account; and

(d) The employer does not request or require the employee to provide his or her login information.

(3) This section does not:

(a) Apply to a social network, intranet, or other technology platform that is intended primarily to facilitate work-related information exchange, collaboration, or communication by employees or other workers;

(b) Prohibit an employer from requesting or requiring an employee to disclose login information for access to: (i) An account or service provided by virtue of the employee's employment relationship with the employer; or (ii) an electronic communications device or online account paid for or supplied by the employer;

(c) Prohibit an employer from enforcing existing personnel policies that do not conflict with this section; (~~(e)~~)

(d) Prevent an employer from complying with the requirements of state or federal statutes, rules or regulations, case law, or rules of self-regulatory organizations; or

(e) Apply to a background investigation in accordance with RCW 43.101.095. However, the officer must not be required to provide login information.

(4) If, through the use of an employer-provided electronic communications device or an electronic device or program that monitors an employer's network, an employer inadvertently receives an employee's login information, the employer is not liable for possessing the information but may not use the login information to access the employee's personal social networking account.

(5) For the purposes of this section and RCW 49.44.205:

(a) "Adverse action" means: Discharging, disciplining, or otherwise penalizing an employee; threatening to discharge, discipline, or otherwise penalize an employee; and failing or refusing to hire an applicant.

(b) "Applicant" means an applicant for employment.

(c) "Electronic communications device" means a device that uses electronic signals to create, transmit, and receive information, including computers, telephones, personal digital assistants, and other similar devices.

(d) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or other activity in this state and employs one or more employees, and includes the state, any state institution, state agency, political subdivisions of the state, and any municipal corporation or quasi-municipal corporation. "Employer" includes an agent, a representative, or a designee of the employer.

(e) "Login information" means a user name and password, a password, or other means of authentication that protects access to a personal social networking account.

Sec. 24. RCW 41.06.040 and 1969 ex.s. c 36 s 22 are each amended to read as follows:

The provisions of this chapter apply to:

(1) Each board, commission or other multimember body, including, but not limited to, those consisting in whole or in part of elective officers;

(2) Each agency, and each employee and position therein, not expressly excluded or exempted under the provisions of RCW 41.06.070 or otherwise excluded or exempted in this chapter.

NEW SECTION. **Sec. 25.** A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter do not apply in the Washington state criminal justice training commission to two confidential secretaries involved in managing the confidential records under RCW 43.101.135 and 43.101.400.

NEW SECTION. **Sec. 26.** A new section is added to chapter 10.93 RCW to read as follows:

A law enforcement or corrections agency is prohibited from considering the application for any office, place, position, or employment within the agency if the applicant has not provided the agency a document, voluntarily and knowingly signed by the applicant, that authorizes each prior employer to release any and all information relating to the applicant's employment, and further releasing and holding harmless the agency and each prior employer from any and all liability that may potentially result from the release and use of such information provided.

NEW SECTION. **Sec. 27.** A new section is added to chapter 10.93 RCW to read as follows:

Prior to hiring any peace officer with previous law enforcement experience, a law enforcement agency must inquire as to whether the officer has ever been subject to potential impeachment disclosure. The agency shall verify the officer's response with the prosecuting authorities in the jurisdictions of the officer's previous employment. The fact that an officer has been subject to impeachment disclosure is not, in and of itself, a bar to employment. Any pre-hiring process or hiring decision by an agency does not constitute a personnel action under RCW 10.93.150.

NEW SECTION. Sec. 28. No later than December 1, 2022, the criminal justice training commission shall submit a written report to the governor and the appropriate committees of the legislature detailing progress of implementation of this act.

NEW SECTION. Sec. 29. The following acts or parts of acts are each repealed:

(1)RCW 43.101.096 (Corrections officer certification) and 2020 c 119 s 3;

(2)RCW 43.101.106 (Denial or revocation of corrections officer certification) and 2020 c 119 s 4;

(3)RCW 43.101.116 (Denial or revocation of corrections officer certification—Readmission to academy—Reinstatement) and 2020 c 119 s 5;

(4)RCW 43.101.136 (Termination of corrections officer—Notification to commission) and 2020 c 119 s 7;

(5)RCW 43.101.146 (Written complaint by corrections officer or corrections agency to deny or revoke corrections officer certification—Immunity of complainant) and 2020 c 119 s 8; and

(6)RCW 43.101.156 (Denial or revocation of corrections officer certification—Statement of charges—Notice—Hearing) and 2020 c 119 s 9.

NEW SECTION. Sec. 30. A new section is added to chapter 41.56 RCW to read as follows:

Notwithstanding any provisions of this chapter, the provisions of chapter . . ., Laws of 2021 (this act) and the implementation thereof do not constitute personnel matters, working conditions, or any other change that require collective bargaining.

NEW SECTION. Sec. 31. To the extent that any provision of this act conflicts with any local regulation, ordinance, collective bargaining agreement, memorandum of understanding, policy, or practice, the provisions of this act shall prevail and the conflicting provision shall be null and void. If the application of this section to a collective bargaining agreement in effect on the effective date of this section would result in impairing contractual obligations under that agreement, then the existing collective bargaining agreement prevails until such time as the agreement expires, renews, or is amended."

On page 1, line 2 of the title, after "corrections officers;" strike the remainder of the title and insert "amending RCW 43.101.010, 43.101.020, 43.101.030, 43.101.040, 43.101.060, 43.101.080, 43.101.085, 43.101.095, 43.101.105, 43.101.115, 43.101.135, 43.101.145, 43.101.155, 43.101.157, 43.101.230, 43.101.390, 43.101.420, 34.12.035, 40.14.070, 43.101.380, 43.101.400, 41.56.905, 49.44.200, and 41.06.040; adding a new section to chapter 41.06 RCW; adding new sections to chapter 10.93 RCW; adding a new section to chapter 41.56 RCW; creating new sections; repealing RCW 43.101.096, 43.101.106, 43.101.116, 43.101.136, 43.101.146, and 43.101.156; and prescribing penalties."

Senator Braun spoke in favor of adoption of the striking amendment.

Senator Braun demanded a roll call.

The President declared that one-sixth of the members supported the demand, and the demand was sustained.

Senator Pedersen spoke against adoption of the striking

amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Braun to Second Substitute Senate Bill No. 5051.

ROLL CALL

The Secretary called the roll on the adoption of the striking amendment by Senator Braun and the amendment was not adopted by the following vote: Yeas, 20; Nays, 26; Absent, 0; Excused, 3.

Voting yea: Senators Braun, Brown, Dozier, Ericksen, Fortunato, Gildon, Hawkins, Holy, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, J. Wilson and L. Wilson

Voting nay: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Froct, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Wellman and C. Wilson

Excused: Senators Hobbs, Honeyford and Van De Wege.

MOTION

Senator Braun moved that the following striking floor amendment no. 161 by Senator Braun be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The criminal justice training commission shall convene a work group to make recommendations regarding when a peace officer must intervene or report wrongdoing observed by another peace officer.

(2) The work group must include:

(a) One representative from the association of superior court judges;

(b) One representative from the Washington association of prosecuting attorneys;

(c) Two community members with experience in police accountability;

(d) One member who is a police chief or sheriff;

(e) One member who is a law enforcement officer; and

(f) One member of the defense bar.

(3) The work group shall make recommendations regarding:

(a) Mandatory versus discretionary revocation of a certification;

(b) hearing panel composition; (c) due process protections for law enforcement officers; (d) additional sanctions including, but not limited to, remedial training; and (e) suspension of a certification.

(4) The work group must report its recommendations to the governor and the appropriate committees of the legislature by December 1, 2021.

(5) The work group must operate within existing funds.

(6) This section expires June 30, 2022."

On page 1, line 2 of the title, after "officers;" strike the remainder of the title and insert "creating a new section; and providing an expiration date."

WITHDRAWAL OF AMENDMENT

On motion of Senator Braun and without objection, floor amendment no. 161 by Senator Braun to Second Substitute Senate Bill No. 5051 was withdrawn.

MOTION

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On motion of Senator Pedersen, the rules were suspended, Engrossed Second Substitute Senate Bill No. 5051 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Pedersen, Dhingra, Nguyen, Conway and Darneille spoke in favor of passage of the bill.

Senators Padden, King, Holy, Wagoner, Dozier, Short, Schoesler, Rivers, Wilson, L., Muzzall, Warnick, Fortunato, Wilson, J., McCune and Sheldon spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5051.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5051 and the bill passed the Senate by the following vote: Yeas, 26; Nays, 19; Absent, 1; Excused, 3.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Hasegawa, Hunt, Keiser, Kuderer, Liias, Lovelett, Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Stanford, Wellman and Wilson, C.

Voting nay: Senators Braun, Brown, Dozier, Fortunato, Gildon, Hawkins, Holy, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

Absent: Senator Ericksen

Excused: Senators Hobbs, Honeyford and Van De Wege

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5051, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

On motion of Senator Liias, the Senate reverted to the fourth order of business.

February 25, 2021

MR. PRESIDENT:

The Speaker has signed ENGROSSED SUBSTITUTE SENATE BILL NO. 5272.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

At 11:41 p.m., on motion of Senator Liias, the Senate adjourned until 10:00 o'clock a.m. Friday, February 26, 2021.

DENNY HECK, President of the Senate

BRAD HENDRICKSON, Secretary of the Senate

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