

NINETY NINTH DAY, APRIL 19, 2021

2021 REGULAR SESSION

## NINETY NINTH DAY

## AFTERNOON SESSION

Senate Chamber, Olympia  
Monday, April 19, 2021

The Senate was called to order at 1:02 p.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.

Mr. Colin Tudor led the Senate in the Pledge of Allegiance. Mr. Tudor is the brother of Senate Committee Services, Committee Assistant Megan Tudor.

Pastor George Everett of Coastlands International Church, Kent offered the prayer.

## 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 third order of business.

## MESSAGE FROM THE GOVERNOR

April 16, 2021

To the Honorable President and Members,  
The Senate of the State of Washington

Ladies and Gentlemen:

I have the honor to advise you that on April 16, 2021, Governor Insee approved the following Senate Bills entitled:

**Senate Bill No. 5005**

Relating to business corporations.

**Senate Bill No. 5015**

Relating to fraudulent portrayal of ballot drop boxes.

**Senate Bill No. 5016**

Relating to tracked and wheeled all-terrain vehicles.

**Senate Bill No. 5018**

Relating to acupuncture and Eastern medicine.

**Engrossed Senate Bill No. 5026**

Relating to moneys available to a port district allocated for the purchase of zero and near zero emissions cargo handling equipment.

**Senate Bill No. 5046**

Relating to workers' compensation claim resolution settlement agreements.

**Substitute Senate Bill No. 5068**

Relating to improving maternal health outcomes by extending coverage during the postpartum period.

**Senate Bill No. 5106**

Relating to municipal access to local financial services.

**Senate Bill No. 5131**

Relating to county clerks duties related to recall petitions.

**Substitute Senate Bill No. 5152**

Relating to enhancing data stewardship and privacy protections for vehicle and driver data by clarifying the allowable uses of personal or identity information, prescribing penalties for data misuse, and codifying existing data contract practices.

**Substitute Senate Bill No. 5169**

Relating to provider reimbursement for personal protective equipment during the state of emergency related to COVID-19.

**Senate Bill No. 5184**

Relating to establishing a building point of contact in all K-12 public schools for students in foster care.

**Substitute Senate Bill No. 5228**

Relating to addressing disproportionate health outcomes by building a foundation of equity in medical training.

**Engrossed Substitute Senate Bill No. 5284**

Relating to eliminating subminimum wage certificates for persons with disabilities.

**Senate Bill No. 5296**

Relating to the definition of index for the Washington state patrol retirement system.

**Senate Bill No. 5303**

Relating to exempting United States food and drug administration nonpublic information from disclosure under the state public disclosure act.

**Substitute Senate Bill No. 5325**

Relating to telemedicine.

**Senate Bill No. 5347**

Relating to member voting methods.

**Engrossed Substitute Senate Bill No. 5355**

Relating to establishing wage liens.

**Engrossed Senate Bill No. 5356**

Relating to prime contractor bidding submission requirements on public works contracts.

**Engrossed Senate Bill No. 5372**

Relating to a hemp processor registration process.

**Substitute Senate Bill No. 5384**

Relating to volunteer firefighters.

**Senate Bill No. 5385**

Relating to the size of the airport a municipality must control or operate for that municipality to enact minimum labor standards for employees at the airport.

**Substitute Senate Bill No. 5425**

Relating to extended benefits in the unemployment insurance system.

**Senate Bill No. 5431**

Relating to creating the Rosa Franklin legislative internship program scholarship.

Sincerely,

/s/

Drew Shirk, Executive Director of Legislative Affairs

**MOTION**

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

**MESSAGE FROM THE HOUSE**

April 16, 2021

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

SUBSTITUTE HOUSE BILL NO. 1348,

SUBSTITUTE HOUSE BILL NO. 1416,

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**

SB 5484 by Senators Gildon, Braun, Dozier, Holy, Honeyford, McCune, Muzzall, Warnick, Wilson, J., and Wilson, L.  
AN ACT Relating to ensuring that equitable COVID-19 vaccine dose allocation is considered before a county may be reverted to a more restrictive phase under the healthy Washington: Roadmap to recovery plan; creating a new section; and declaring an emergency.

Referred to Committee on State Government & Elections.

SB 5485 by Senators Nguyen and Nobles  
Prohibiting traffic stops for certain traffic violations.

Referred to Committee on Transportation.

**MOTIONS**

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

At 1:08 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

Senator Hasegawa announced a meeting of the Democratic Caucus.

Senator Rivers announced a meeting of the Republican Caucus.

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The Senate was called to order at 4:08 p.m. by President Heck.

**SIGNED BY THE PRESIDENT**

Pursuant to Article 2, Section 32 of the State Constitution and Senate Rule 1(5), the President announced the signing of and

thereupon did sign in open session:

SUBSTITUTE SENATE BILL NO. 5003,

SUBSTITUTE SENATE BILL NO. 5011,

SENATE BILL NO. 5027,

SUBSTITUTE SENATE BILL NO. 5030,

SENATE BILL NO. 5032,

SUBSTITUTE SENATE BILL NO. 5034,

SENATE BILL NO. 5146,

ENGROSSED SENATE BILL NO. 5158,

SUBSTITUTE SENATE BILL NO. 5258,

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO.

5259,

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO.

5287,

SENATE BILL NO. 5345,

and ENGROSSED SUBSTITUTE SENATE BILL NO. 5452.

**MOTION**

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

**MESSAGE FROM THE HOUSE**

April 7, 2021

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5022 with the following amendment(s): 5022-S2.E AMH ENGR H1491.E

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1. FINDINGS—INTENT.** (1) The legislature finds that minimum recycled content requirements for plastic beverage containers, trash bags, and household cleaning and personal care product containers, bans on problematic and unnecessary plastic packaging, and standards for customer opt-in for food service packaging and accessories are among actions needed to improve the state's recycling system as well as reduce litter.

(2) By implementing a minimum recycled content requirement for plastic beverage containers, trash bags, and household cleaning and personal care product containers; prohibiting the sale and distribution of certain expanded polystyrene products; and establishing optional serviceware requirements as provided for in this chapter; the legislature intends to take another step towards ensuring plastic packaging and other packaging materials are reduced, recycled, and reused.

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

(1) "Beverage" means beverages identified in (a) through (f) of this subsection, intended for human or animal consumption, and in a quantity more than or equal to two fluid ounces and less than or equal to one gallon:

(a) Water and flavored water;

(b) Beer or other malt beverages;

(c) Wine;

(d) Distilled spirits;

(e) Mineral water, soda water, and similar carbonated soft drinks; and

(f) Any beverage other than those specified in (a) through (e) of this subsection, except infant formula as defined in 21 U.S.C. Sec. 321(z), medical food as defined in 21 U.S.C. Sec. 360ee(b)(3), or fortified oral nutritional supplements used for persons who require supplemental or sole source nutritional needs

due to special dietary needs directly related to cancer, chronic kidney disease, diabetes, or other medical conditions as determined by the department.

(2) "Beverage manufacturing industry" means an association that represents beverage producers.

(3) "Condiment packaging" means packaging used to deliver single-serving condiments to customers. Condiment packaging includes, but is not limited to, single-serving packaging for ketchup, mustard, relish, mayonnaise, hot sauce, coffee creamer, salad dressing, jelly, jam, and soy sauce.

(4)(a) "Covered product" means an item in one of the following categories subject to minimum postconsumer recycled content requirements:

(i) Plastic trash bags;

(ii) Household cleaning and personal care products that use plastic household cleaning and personal care product containers; and

(iii) Beverages that use plastic beverage containers.

(b) "Covered product" does not include any type of container or bag for which the state is preempted from regulating content of the container material or bag material under federal law.

(5) "Dairy milk" means a beverage that designates milk as the predominant (first) ingredient in the ingredient list on the container's label.

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

(7) "Expanded polystyrene" means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres (expandable bead polystyrene), injection molding, foam molding, and extrusion-blow molding (extruded foam polystyrene).

(8) "Food service business" means a business selling or providing food for consumption on or off the premises, and includes full-service restaurants, fast food restaurants, cafes, delicatessens, coffee shops, grocery stores, vending trucks or carts, home delivery services, delivery services provided through an online application, and business or institutional cafeterias.

(9) "Food service product" means a product intended for one-time use and used for food or drink offered for sale or use. Food service products include, but are not limited to, containers, plates, bowls, cups, lids, beverage containers, meat trays, deli rounds, utensils, sachets, straws, condiment packaging, clamshells and other hinged or lidded containers, wrap, and portion cups.

(10) "Household cleaning and personal care product" means any of the following:

(a) Laundry detergents, softeners, and stain removers;

(b) Household cleaning products;

(c) Liquid soap;

(d) Shampoo, conditioner, styling sprays and gels, and other hair care products; or

(e) Lotion, moisturizer, facial toner, and other skin care products.

(11) "Household cleaning and personal care product manufacturing industry" means an association that represents companies that manufacture household cleaning and personal care products.

(12) "Licensee" means a manufacturer or entity who licenses a brand and manufactures a covered product under that brand.

(13) "Oral nutritional supplement" means a manufactured liquid, powder capable of being reconstituted, or solid product that contains a combination of carbohydrates, proteins, fats, fiber, vitamins, and minerals intended to supplement a portion of a patient's nutrition intake.

(14) "Plastic beverage container" means a bottle or other rigid container that is capable of maintaining its shape when empty, comprised solely of one or multiple plastic resins designed to contain a beverage. Plastic beverage container does not include:

(a) Refillable beverage containers, such as containers that are sufficiently durable for multiple rotations of their original or similar purpose and are intended to function in a system of reuse;

(b) Rigid plastic containers or plastic bottles that are or are used for medical devices, medical products that are required to be sterile, nonprescription and prescription drugs, or dietary supplements as defined in RCW 82.08.0293;

(c) Bladders or pouches that contain wine; or

(d) Liners, caps, corks, closures, labels, and other items added externally or internally but otherwise separate from the structure of the bottle or container.

(15)(a) "Plastic household cleaning and personal care product container" means a bottle, jug, or other rigid container with a neck or mouth narrower than the base, and:

(i) A minimum capacity of eight fluid ounces or its equivalent volume;

(ii) A maximum capacity of five fluid gallons or its equivalent volume;

(iii) That is capable of maintaining its shape when empty;

(iv) Comprised solely of one or multiple plastic resins; and

(v) Containing a household cleaning or personal care product.

(b) "Plastic household cleaning and personal care product container" does not include:

(i) Refillable household cleaning and personal care product containers, such as containers that are sufficiently durable for multiple rotations of their original or similar purpose and are intended to function in a system of reuse; and

(ii) Rigid plastic containers or plastic bottles that are medical devices, medical products that are required to be sterile, and nonprescription and prescription drugs, dietary supplements as defined in RCW 82.08.0293, and packaging used for those products.

(16) "Plastic trash bag" means a bag that is made of noncompostable plastic, is at least 0.70 mils thick, and is designed and manufactured for use as a container to hold, store, or transport materials to be discarded or recycled, and includes, but is not limited to, a garbage bag, recycling bag, lawn or leaf bag, can liner bag, kitchen bag, or compactor bag. "Plastic trash bag" does not include any compostable bags meeting the requirements of chapter 70A.455 RCW.

(17) "Plastic trash bag manufacturing industry" means an association that represents companies that manufacture plastic trash bags.

(18) "Postconsumer recycled content" means the content of a covered product made of recycled materials derived specifically from recycled material generated by households or by commercial, industrial, and institutional facilities in their role as end users of a product that can no longer be used for its intended purpose. "Postconsumer recycled content" includes returns of material from the distribution chain.

(19)(a) "Producer" means the following person responsible for compliance with minimum postconsumer recycled content requirements under this chapter for a covered product sold, offered for sale, or distributed in or into this state:

(i) If the covered product is sold under the manufacturer's own brand or lacks identification of a brand, the producer is the person who manufactures the covered product;

(ii) If the covered product is manufactured by a person other than the brand owner, the producer is the person who is the licensee of a brand or trademark under which a covered product

is sold, offered for sale, or distributed in or into this state, whether or not the trademark is registered in this state, unless the manufacturer or brand owner of the covered product has agreed to accept responsibility under this chapter; or

(iii) If there is no person described in (a)(i) and (ii) of this subsection over whom the state can constitutionally exercise jurisdiction, the producer is the person who imports or distributes the covered product in or into the state.

(b) "Producer" does not include:

(i) Government agencies, municipalities, or other political subdivisions of the state;

(ii) Registered 501(c)(3) charitable organizations and 501(c)(4) social welfare organizations; or

(iii) De minimis producers that annually sell, offer for sale, distribute, or import in or into the country for sale in Washington:

(A) Less than one ton of a single category of plastic beverage containers, plastic household cleaning and personal care containers, or plastic trash bags each year; or

(B) A single category of a covered product that in aggregate generates less than \$1,000,000 each year in revenue.

(20)(a) "Retail establishment" means any person, corporation, partnership, business, facility, vendor, organization, or individual that sells or provides merchandise, goods, or materials directly to a customer.

(b) "Retail establishment" includes, but is not limited to, food service businesses, grocery stores, department stores, hardware stores, home delivery services, pharmacies, liquor stores, restaurants, catering trucks, convenience stores, or other retail stores or vendors, including temporary stores or vendors at farmers markets, street fairs, and festivals.

(21)(a) "Utensil" means a product designed to be used by a consumer to facilitate the consumption of food or beverages, including knives, forks, spoons, cocktail picks, chopsticks, splash sticks, and stirrers.

(b) "Utensil" does not include plates, bowls, cups, and other products used to contain food or beverages.

**NEW SECTION. Sec. 3. POSTCONSUMER RECYCLED CONTENT.** (1)(a) Beginning January 1, 2023, producers that offer for sale, sell, or distribute in or into Washington:

(i) Beverages other than wine in 187 milliliter plastic beverage containers and dairy milk in plastic beverage containers must meet minimum postconsumer recycled content requirements established under subsection (4) of this section; and

(ii) Plastic trash bags must meet minimum postconsumer recycled content requirements established under subsection (6) of this section.

(b) Beginning January 1, 2025, producers that offer for sale, sell, or distribute in or into Washington household cleaning and personal care products in plastic household cleaning and personal care product containers must meet minimum postconsumer recycled content as required under subsection (5) of this section.

(c) Beginning January 1, 2028, producers that offer for sale, sell, or distribute in or into Washington wine in 187 milliliter plastic beverage containers or dairy milk in plastic beverage containers must meet minimum postconsumer recycled content as required under subsection (4) of this section.

(2)(a) On or before April 1, 2022, and annually thereafter, a producer that offers for sale, sells, or distributes in or into Washington covered products must register with the department individually or through a third-party representative registering on behalf of a group of producers.

(b) The registration information submitted to the department under this section must include a list of the producers of covered products and the brand names of the covered products represented in the registration submittal. Beginning April 1, 2024, for plastic

trash bags and plastic beverage containers other than wine in 187 milliliter plastic beverage containers and dairy milk in plastic beverage containers, April 1, 2026, for plastic household and personal care product containers, and April 1, 2029, for wine in 187 milliliter plastic beverage containers and dairy milk, a producer may submit registration information at the same time as the information submitted through the annual reporting required under section 4 of this act.

(3)(a) By January 31, 2022, and every January 31st thereafter, the department must:

(i) Prepare an annual workload analysis for public comment that identifies the annual costs it expects to incur to implement, administer, and enforce this section and sections 4 through 7 and 12(1), (2), and (4) of this act, including rule making, in the next fiscal year for each category of covered products;

(ii) Determine a total annual fee payment by producers or their third-party representatives for each category of covered products that is adequate to cover, but not exceed, the workload identified in (a)(i) of this subsection;

(iii) Until rules are adopted under (a)(iv) of this subsection, issue a general order to all entities falling within the definition of producer. The department must equitably determine fee amounts for an individual producer or third-party representatives within each category of covered product;

(iv) By 2024, adopt rules to equitably determine annual fee payments by producers or their third-party representatives within each category of covered product. Once such rules are adopted, the general order issued under (a)(iii) of this subsection is no longer effective; and

(v) Send notice to producers or their third-party representatives of fee amounts due consistent with either the general order issued under (a)(iii) of this subsection or rules adopted under (a)(iv) of this subsection.

(b) The department must:

(i) Apply any remaining annual payment funds from the current year to the annual payment for the coming year, if the collected annual payment exceeds the department's costs for a given year; and

(ii) Increase annual payments for the coming year to cover the department's costs, if the collected annual payment was less than the department's costs for a given year.

(c) By April 1, 2022, and every April 1st thereafter, producers or their third-party representative must submit a fee payment as determined by the department under (a) of this subsection.

(4) A producer of a beverage in a plastic beverage container must meet the following annual minimum postconsumer recycled content percentage on average for the total quantity of plastic beverage containers, by weight, that are sold, offered for sale, or distributed in or into Washington by the producer effective:

(a) For beverages except wine in 187 milliliter plastic beverage containers and dairy milk:

(i) January 1, 2023, through December 31, 2025: No less than 15 percent postconsumer recycled content plastic by weight;

(ii) January 1, 2026, through December 31, 2030: No less than 25 percent postconsumer recycled content plastic by weight; and

(iii) On and after January 1, 2031: No less than 50 percent postconsumer recycled content plastic by weight.

(b) For wine in 187 milliliter plastic beverage containers and dairy milk:

(i) January 1, 2028, through December 31, 2030: No less than 15 percent postconsumer recycled content plastic by weight;

(ii) January 1, 2031, through December 31, 2035: No less than 25 percent postconsumer recycled content plastic by weight; and

(iii) On and after January 1, 2036: No less than 50 percent postconsumer recycled content plastic by weight.

(5) A producer of household cleaning and personal care products in plastic containers must meet the following annual minimum postconsumer recycled content percentage on average for the total quantity of plastic containers, by weight, that are sold, offered for sale, or distributed in or into Washington by the producer effective:

(a) January 1, 2025, through December 31, 2027: No less than 15 percent postconsumer recycled content plastic by weight;

(b) January 1, 2028, through December 31, 2030: No less than 25 percent postconsumer recycled content plastic by weight; and

(c) On and after January 1, 2031: No less than 50 percent postconsumer recycled content plastic by weight.

(6) A producer of plastic trash bags must meet the following annual minimum postconsumer recycled content percentage on average for the total quantity of plastic trash bags, by weight, that are sold, offered for sale, or distributed in or into Washington by the producer effective:

(a) January 1, 2023, through December 31, 2024: No less than 10 percent postconsumer recycled content plastic by weight;

(b) January 1, 2025, through December 31, 2026: No less than 15 percent postconsumer recycled content plastic by weight; and

(c) On and after January 1, 2027: No less than 20 percent postconsumer recycled content plastic by weight.

(7)(a) Beginning January 1, 2024, or when rule making is complete, whichever is sooner, the department may, on an annual basis on January 1st, review and determine for the following year whether to adjust the minimum postconsumer recycled content percentage required for a type of container or product or category of covered products pursuant to subsection (4), (5), or (6) of this section. The department's review may be initiated by the department or at the petition of a producer or a covered product manufacturing industry not more than once annually. When submitting a petition, producers or a producer manufacturing industry must provide necessary information that will allow the department to make a determination under (b) of this subsection.

(b) In making a determination pursuant to this subsection, the department must consider, at a minimum, all of the following factors:

(i) Changes in market conditions, including supply and demand for postconsumer recycled content plastics, collection rates, and bale availability both domestically and globally;

(ii) Recycling rates;

(iii) The availability of recycled plastic suitable to meet the minimum postconsumer recycled content requirements pursuant to subsection (4), (5), or (6) of this section, including the availability of high quality recycled plastic, and food-grade recycled plastic from recycling programs;

(iv) The capacity of recycling or processing infrastructure;

(v) The technical feasibility of achieving the minimum postconsumer recycled content requirements in covered products that are regulated under 21 C.F.R., chapter I, subchapter G, 7 U.S.C. Sec. 136, 15 U.S.C. Sec. 1471-1477, 49 C.F.R. Sec. 178.33b, 49 C.F.R. Sec. 173, 40 C.F.R. Sec. 152.10, 15 U.S.C. Sec. 1261-1278, 49 U.S.C. 5101 et seq., 49 C.F.R. Sec. 178.509, 49 C.F.R. Sec. 179.522, 49 C.F.R. Sec. 178.600-609, and other federal laws; and

(vi) The progress made by producers in achieving the goals of this section.

(c) Under (a) of this subsection:

(i) The department may not adjust the minimum postconsumer recycled content requirements above the minimum postconsumer recycled content percentages for the year under review required pursuant to subsection (4), (5), or (6) of this section.

(ii) For plastic household cleaning and personal care product containers, the department may not adjust the minimum postconsumer recycled content requirements above the minimum postconsumer recycled content percentages for the year under review required pursuant to subsection (5) of this section or below a minimum of 10 percent.

(iii) For plastic trash bags, the department may not adjust the minimum postconsumer recycled content requirements above the minimum postconsumer recycled content percentages for the year under review required pursuant to subsection (6) of this section or below the minimum percentage required in subsection (6)(a) of this section.

(d) A producer or the manufacturing industry for a covered product may appeal a decision by the department to adjust postconsumer recycled content percentages under (a) of this subsection or to temporarily exclude covered products from minimum postconsumer recycled content requirements under subsection (8) of this section to the pollution control hearings board within 30 days of the department's determination.

(8) The department must temporarily exclude from minimum postconsumer recycled content requirements for the upcoming year any types of covered products in plastic containers for which a producer annually demonstrates to the department by December 31st of a given year that the achievement of postconsumer recycled content requirements in the container material is not technically feasible in order to comply with health or safety requirements of federal law, including the federal laws specified in subsection (7)(b)(v) of this section. A producer must continue to register and report consistent with the requirements of this chapter for covered products temporarily excluded from minimum postconsumer recycled content requirements under this subsection.

(9) A producer that does not achieve the postconsumer recycled content requirements established under this section is subject to penalties established in section 5 of this act.

(10)(a) A city, town, county, or municipal corporation may not implement local recycled content requirements for a covered product that is subject to minimum postconsumer recycled content requirements established in this section.

(b) A city, town, county, or municipal corporation may establish local purchasing requirements that include recycled content standards that exceed the minimum recycled content requirements established by this chapter for plastic household cleaning and personal care product containers or plastic trash bags purchased by a city, town, or municipal corporation, or its contractor.

(11) The department may enter into contracts for the services required to implement this chapter and related duties of the department.

(12) In-state distributors, wholesalers, and retailers in possession of covered products manufactured before the date that postconsumer recycled content requirements become effective may exhaust their existing stock through sales to the public.

**NEW SECTION. Sec. 4. PRODUCER REPORTING REQUIREMENTS.** (1)(a) Except as provided in (b) and (c) of this subsection, beginning April 1, 2024, each producer of covered products, individually or through a third party representing a group of producers, must provide an annual report to the department that includes the amount in pounds of virgin plastic and the amount in pounds of postconsumer recycled content by resin type used for each category of covered products that are sold, offered for sale, or distributed in or into Washington state, including the total postconsumer recycled content resins as a percentage of total weight. The report must be submitted in a

format and manner prescribed by the department. A manufacturer may submit national data allocated on a per capita basis for Washington to approximate the information required in this subsection if the producer or third-party representative demonstrates to the department that state level data are not available or feasible to generate.

(b) The requirements of (a) of this subsection apply to household cleaning and personal care products in plastic containers beginning April 1, 2026.

(c) The requirements of (a) of this subsection apply to wine in 187 milliliter plastic beverage containers and dairy milk in plastic beverage containers beginning April 1, 2029.

(d) The department must post the information reported under this subsection on its website, except as provided in subsection (2) of this section.

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

**NEW SECTION. Sec. 5. PENALTIES FOR POSTCONSUMER RECYCLED CONTENT REQUIREMENTS.** (1)(a) A producer that does not meet the minimum postconsumer recycled content requirements pursuant to section 3 of this act is subject to a penalty pursuant to this section. Beginning June 1st of the year following the first year that minimum postconsumer recycled product content requirements apply to a category of covered product, the penalty must be calculated consistent with subsection (2) of this section unless a penalty reduction or corrective action plan has been approved pursuant to subsection (3) of this section.

(b) A producer that is assessed a penalty pursuant to this section may pay the penalty to the department in one payment, in quarterly installments, or arrange an alternative payment schedule subject to the approval of the department, not to exceed a 12-month payment schedule unless the department determines an extension is needed due to unforeseen circumstances, such as a public health emergency, state of emergency, or natural disaster.

(2) Beginning June 1st of the year following the first year that minimum postconsumer recycled product content requirements apply to a category of covered product, and annually thereafter, the department shall determine the penalty for the previous calendar year based on the postconsumer recycled content requirement of the previous calendar year. The department shall calculate the amount of the penalty based upon the amounts in pounds in the aggregate of virgin plastic, postconsumer recycled content plastic, and any other plastic per category used by the producer to produce covered products sold or offered for sale in or into Washington state, in accordance with the following:

(a)(i) The annual penalty amount assessed to a producer must equal the product of both of the following: The total pounds of plastic used per category multiplied by the relevant minimum postconsumer recycled plastic target percentage, less the pounds of total plastic multiplied by the percent of postconsumer recycled plastic used; multiplied by 20 cents.

(ii) Example: [(Total pounds of plastic used x minimum postconsumer recycled plastic target percentage) – (Total pounds of plastic used x postconsumer recycled plastic percentage used)] x 20 cents.

(b) For the purposes of (a) of this subsection, both of the following apply:

(i) The total pounds of plastic used must equal the sum of the amount of virgin plastic, postconsumer recycled content plastic, and any other plastic used by the producer, as reported pursuant to section 4 of this act.

(ii) If the product calculated pursuant to (a) of this subsection is equal to or less than zero, the department may not assess a penalty.

(3)(a)(i) The department shall consider granting a reduction of penalties assessed pursuant to this section for the purpose of meeting the minimum postconsumer recycled content requirements required pursuant to section 3 of this act.

(ii) In determining whether to grant the reduction pursuant to (a)(i) of this subsection, the department shall consider, at a minimum, all of the following factors:

(A) Anomalous market conditions;

(B) Disruption in, or lack of supply of, recycled plastics; and

(C) Other factors that have prevented a producer from meeting the requirements.

(b) In lieu of or in addition to assessing a penalty under this section, the department may require a producer to submit a corrective action plan detailing how the producer plans to come into compliance with section 3 of this act.

(4) For the purposes of determining compliance with the postconsumer recycled content requirements of this chapter, the department may consider the date of manufacture of a covered product or the container of a covered product.

(5) A producer shall pay the penalty assessed pursuant to this section, as applicable, based on the information reported to the department as required under section 4 of this act in the form and manner prescribed by the department.

(6) A producer may appeal the penalty assessed under this section to the pollution control hearings board within 30 days of assessment.

(7) Penalties collected under this section must be deposited in the recycling enhancement account created in section 13 of this act.

**NEW SECTION. Sec. 6. PENALTIES FOR REGISTRATION, LABELING, AND REPORTING.** (1) For producers out of compliance with the registration, reporting, or labeling requirements of section 3, 4, or 7 of this act, the department shall provide written notification and offer information to producers. For the purposes of this section, written notification serves as notice of the violation. The department must issue at least two notices of violation by certified mail prior to assessing a penalty under subsection (2) of this section.

(2) A producer in violation of the registration, reporting, or labeling requirements in section 3, 4, or 7 of this act is subject to a civil penalty for each day of violation in an amount not to exceed \$1,000.

(3) Penalties collected under this section must be deposited in the recycling enhancement account created in section 13 of this act.

(4) Penalties issued under this section are appealable to the pollution control hearings board established in chapter 43.21B RCW.

**NEW SECTION. Sec. 7. TRASH BAG LABELING REQUIREMENTS.** (1) Beginning January 1, 2023, producers shall label each package containing plastic trash bags sold, offered for sale, or distributed in or into Washington with:

(a) The name of the producer and the city, state, and country where the producer is located, which may be designated as the location of the producer's corporate headquarters; or

(b) A uniform resource locator or quick response code to an internet website that contains the information required pursuant to (a) of this subsection.

(2)(a) The provisions of subsection (1) of this section do not apply to a plastic bag that is designed and manufactured to hold, store, or transport dangerous waste or biomedical waste.

(b) For the purposes of this subsection:

(i) "Biomedical waste" means any waste defined as that term under RCW 70A.228.010; and

(ii) "Dangerous waste" means any waste defined as dangerous wastes under RCW 70A.300.010.

**NEW SECTION. Sec. 8.** A new section is added to chapter 39.26 RCW to read as follows:

**POSTCONSUMER RECYCLED CONTENT IN PLASTIC TRASH BAGS—PURCHASING PRIORITY.**

(1) Beginning July 1, 2024, all state agencies may only purchase plastic trash bags manufactured by producers that comply with the minimum recycled content requirements established in section 3 of this act.

(2) By July 1, 2024, the department of ecology shall provide to the department a list of the plastic trash bag producer brands that comply with the minimum recycled content requirements established in section 3 of this act, in order for state agencies to purchase compliant products, updated annually.

**NEW SECTION. Sec. 9.** (1)(a) By July 1, 2021, the departments of commerce and ecology shall jointly select an impartial, third-party facilitator to convene a stakeholder advisory committee housed within the recycling development center. The advisory committee shall make recommendations to the appropriate committees of the legislature on the development of mandatory postconsumer recycled content requirements for types of plastic packaging not subject to the minimum postconsumer recycled content requirements established in this act, and that are present in the municipal solid waste material stream or are regularly received by facilities that process recyclable materials from residential curbside recycling programs. The recommendations may include rates of mandatory postconsumer recycled content required by material type, target implementation dates, and potential exemptions or alternate compliance pathways for some materials.

(b) The facilitator must:

(i) Work with the recycling development center to subcontract for any relevant information regarding recycled plastic market conditions and barriers to the use of recycled content to provide to the stakeholder advisory committee to aid in the development of recommendations, to the extent practicable;

(ii) Provide staff and support to the stakeholder advisory committee meetings; and

(iii) Draft reports and other materials for review by the stakeholder advisory committee.

(2) The facilitator identified in subsection (1) of this section must be selected based on the following criteria:

(a) Impartiality regarding policy outcomes;

(b) Professional qualifications, relevant experience, and degrees; and

(c) The facilitator must be an environmental conflict resolution specialist recognized by a national center for environmental conflict resolution.

(3) By December 1, 2021, the facilitator shall submit a report to the legislature containing the recommendations of the stakeholder advisory committee after review and approval by the facilitator and committee. The stakeholder advisory committee shall make recommendations using consensus-based decision making. The report must include recommendations where general

stakeholder consensus has been achieved and note dissenting opinions where stakeholder consensus has not been achieved.

(4) The stakeholder advisory committee shall consider information and findings by a variety of authoritative bodies related to recycled content, including mechanical and advanced recycling technologies.

(5) The facilitator shall select at least one member to the stakeholder advisory committee from each of the following:

(a) The department of commerce;

(b) The department of ecology;

(c) The utilities and transportation commission;

(d) Cities, including both small and large cities and cities located in urban and rural counties;

(e) Counties, including both small and large counties and urban and rural counties;

(f) Municipal collectors;

(g) A representative from the private sector waste and recycling industry that owns or operates a curbside recycling program and a material recovery facility;

(h) A solid waste collection company regulated under chapter 81.77 RCW that provides curbside recycling services;

(i) A material recovery facility operator that processes municipal solid waste from curbside recycling programs;

(j) A company that provides curbside recycling service pursuant to a municipal contract under RCW 81.77.020;

(k) A trade association that represents the private sector solid waste industry;

(l) Recycled plastic feedstock users;

(m) A trade association representing the plastics recycling industry;

(n) A recycled content certification organization;

(o) An environmental justice organization;

(p) An environmental nonprofit organization;

(q) An environmental nonprofit organization that specializes in waste and recycling issues;

(r) Plastic converters/manufacturers of resins;

(s) A manufacturer of plastic packaging;

(t) A statewide general business trade association;

(u) Associations that represent consumer brand companies;

(v) Representatives of consumer brands;

(w) A consumer-oriented organization;

(x) Representatives of the state's most marginalized communities;

(y) A retailer or representative of the retail association;

(z) A representative of an advanced recycling technology provider that processes plastic material;

(aa) An association that represents cities;

(bb) An association that represents county solid waste managers;

(cc) A representative from a retail grocery association;

(dd) A representative from a Washington headquartered online retailer;

(ee) A representative from a national consumer electronics association; and

(ff) A representative from the personal care products industry.

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

(7) This section expires January 1, 2022.

**NEW SECTION. Sec. 10. EXPANDED POLYSTYRENE PROHIBITIONS.** (1)(a) Beginning June 1, 2024, the sale and distribution of the following expanded polystyrene products in or into Washington state is prohibited:

(i) A portable container that is designed or intended to be used for cold storage, except for expanded polystyrene containers used

for drugs, medical devices, and biological materials as defined in the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) or shipping perishable commodities from a wholesale or retail establishment; and

(ii) Food service products that include food containers, plates, clam shell-style containers, and hot and cold beverage cups. For the purposes of this subsection (1)(a)(ii), food service products do not include: Packaging for raw, uncooked, or butchered meat, fish, poultry, or seafood, vegetables, fruit, or egg cartons.

(b) Beginning June 1, 2023, the sale and distribution of expanded polystyrene void filling packaging products, which means loose fill packaging material, also referred to as packing peanuts, in or into Washington state is prohibited.

(2)(a) The department must provide technical assistance and guidance to manufacturers of prohibited expanded polystyrene products, upon request. For manufacturers out of compliance with the requirements of this section, the department shall provide written notification and offer information to manufacturers that sell prohibited expanded polystyrene products who are in violation of this section. For the purposes of this section, written notification serves as notice of the violation. The department must issue at least two notices of violation by certified mail prior to assessing a penalty.

(b) A manufacturer of products in violation of this section is subject to a civil penalty for each violation in an amount not to exceed:

(i) \$250 if it is the manufacturer's first penalty; and

(ii) \$1,000 if the manufacturer has previously been issued a civil penalty under this section.

(c) Penalties collected under this section must be deposited in the model toxics control operating account created in RCW 70A.305.180.

(d) Penalties issued under this section are appealable to the pollution control hearings board established in chapter 43.21B RCW.

(3) A city, town, county, or municipal corporation may not implement a local ordinance restricting products prohibited under subsection (1) of this section unless the ordinance was filed by April 1, 2021, and enacted by June 1, 2021. An ordinance restricting products prohibited under subsection (1) of this section that was not enacted as of June 1, 2021, is preempted by this section.

(4) For the purposes of this section, "manufacturer" includes any person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that:

(a) Produces the products subject to restrictions in subsection (1) of this section; or

(b) Is an importer or domestic distributor of a product subject to restrictions in subsection (1) of this section sold or offered for sale in or into the state.

**NEW SECTION. Sec. 11. OPTIONAL SERVICEWARE.** (1) Beginning January 1, 2022:

(a) Except as provided in (b) of this subsection, a food service business may provide the following single use food service products only after affirming that the customer wants the item or items:

(i) Utensils;

(ii) Straws;

(iii) Condiment packaging; and

(iv) Beverage cup lids.

(b) A food service business may provide beverage cup lids without customer affirmation for:

(i) Hot beverages;

(ii) Beverages provided through delivery service or curbside pickup; and

(iii) Beverages served to customers via a drive through or at large, permanent, venues that are designed for professional sport or music events and that have a fixed-seat capacity of at least 2,500 customers and are enclosed or are surrounded by a perimeter fence.

(c) The requirements of this section do not apply to food service products provided to a patient, resident, or customer in:

(i) A health care facility or a health care provider as defined in RCW 70.02.010;

(ii) Long-term care facilities identified in RCW 18.51.010, 18.20.020, 70.128.010, 70.97.010, or 18.390.010;

(iii) Senior nutrition programs authorized under 45 C.F.R. Sec. 1321, and home delivered meals offered under chapters 74.39 and 74.39A RCW;

(iv) Services to individuals with developmental disabilities under Title 71A RCW and chapter 74.39A RCW; and

(v) State hospitals as defined in RCW 72.23.010.

(d) The requirements of this subsection (1) apply to the activities of the department of corrections and the department of children, youth, and families only to the extent operationally feasible and practicable.

(2)(a) Nothing in this section prohibits a food service business from making utensils, straws, condiments, and beverage cup lids available to customers using cylinders, bins, dispensers, containers, or other means of allowing for single-use utensils, straws, condiments, and beverage cup lids to be obtained at the affirmative volition of the customer.

(b) Utensils provided by a food service business for use by customers may not be bundled or packaged in plastic in such a way that a customer is unable to take only the type of single-use utensil or utensils desired without also taking a different type or types of utensil.

(3)(a) The department may issue a civil penalty of no less than \$150 per day and no more than \$2,000 per day to the owner or operator of a food service business for each day single-use food service products are provided in violation of this section.

(b) The department must issue at least two notices of violation by certified mail prior to assessing a penalty.

(c) Penalties collected under this section must be deposited in the model toxics control operating account created in RCW 70A.305.180.

(d) A food service business may appeal penalties assessed under this subsection to the pollution control hearings board within 30 days of assessment.

(4) All food service businesses are encouraged, but not required, to take actions in addition to the requirements of this section that support a goal of reducing the use of and waste generated by single-use food service products.

(5) Beginning July 1, 2021, a city, town, county, or municipal corporation may not enact an ordinance to reduce pollution from single-use food service products by requiring affirmation that a customer wants single-use food service products from the customer of the food service business or other retail establishment.

**NEW SECTION. Sec. 12. DEPARTMENT DUTIES.** (1) The department may conduct audits and investigations for the purpose of ensuring compliance with sections 3 and 5 of this act based on the information reported under section 4 of this act.

(2) The department shall annually publish a list of registered producers of covered products and associated brand names, their compliance status, and other information the department deems appropriate on the department's website.

(3) To assist regulated parties with the requirements specified under sections 10 and 11 of this act, the department:



(a) Must prepare and post on its website information regarding the prohibitions on the sale and distribution of expanded polystyrene products as specified under section 10 of this act and restrictions on the provision of optional serveware under section 11 of this act;

(b) For education and outreach to help implement sections 10 and 11 of this act, may develop culturally appropriate and translated educational materials and resources for the state's diverse ethnic populations from existing materials used by local jurisdictions and other states.

(4) The department may adopt rules as necessary to administer, implement, and enforce this chapter.

**NEW SECTION. Sec. 13. RECYCLING ENHANCEMENT ACCOUNT.** The recycling enhancement account is created in the custody of the state treasurer. All penalties collected by the department pursuant to sections 5 and 6 of this act must be deposited in the account. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account may be used by the department only for providing grants to local governments for the purpose of supporting local solid waste and financial assistance programs.

**NEW SECTION. Sec. 14. RECYCLED CONTENT ACCOUNT.** The recycled content account is created in the custody of the state treasurer. All receipts received by the department under section 3 of this act must be deposited in the account. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account may be used by the department only for implementing, administering, and enforcing the requirements of sections 3 through 7 and 12(1), (2), and (4) of this act.

**NEW SECTION. Sec. 15. MARKET STUDY.** (1) Subject to the availability of amounts appropriated for this specific purpose prior to January 1, 2028, the department shall contract with a research university or an independent third-party consultant to study the plastic resin markets for all of the following:

(a) Analyzing market conditions and opportunities in the state's recycling industry for meeting the minimum postconsumer recycled content requirements for covered products pursuant to sections 3 and 4 of this act; and

(b) Determining the data needs and tracking opportunities to increase the transparency and support of a more effective, fact-based public understanding of the recycling industry.

(2) If funding is provided pursuant to subsection (1) of this section and the department undertakes the study, the study must be completed by May 1, 2029.

(3) This section expires July 1, 2029.

**Sec. 16.** RCW 43.21B.110 and 2020 c 138 s 11 and 2020 c 20 s 1035 are each reenacted and amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70A.15 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.530.040, 70A.350.070, 70A.515.060, sections 5, 6, 10, and 11 of this act, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070, section 3 of this act, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

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

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

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

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

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

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

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

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

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

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

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

(n) Decisions of the department of ecology that are appealable under section 3 of this act to set recycled minimum postconsumer content for covered products or to temporarily exclude types of covered products in plastic containers from minimum postconsumer recycled content requirements.

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

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

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

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

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

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

**Sec. 17.** RCW 43.21B.300 and 2020 c 20 s 1038 are each amended to read as follows:

(1) Any civil penalty provided in RCW 18.104.155, 70A.15.3160, 70A.205.280, 70A.300.090, 70A.20.050, sections 5, 6, 10, and 11 of this act, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102 and chapter 70A.355 RCW shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department or the local air authority, describing the violation with reasonable particularity. For penalties issued by local air authorities, within thirty days after the notice is received, the person incurring the penalty may apply in writing to the authority for the remission or mitigation of the penalty. Upon receipt of the application, the authority may remit or mitigate the penalty upon whatever terms the authority in its discretion deems proper. The authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department or authority thirty days after the date of receipt by the person penalized of the notice imposing the penalty or thirty days after the date of receipt of the notice of disposition by a local air authority of the application for relief from penalty.

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

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

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

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

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

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70A.15.3160, the disposition of which shall be governed by that provision, sections 5 and 6 of this act, which shall be credited to the recycling enhancement account created in section 13 of this

act, RCW 70A.300.090, which shall be credited to the model toxics control operating account created in RCW 70A.305.180, RCW 90.56.330, which shall be credited to the coastal protection fund created by RCW 90.48.390, and RCW 70A.355.070, which shall be credited to the underground storage tank account created by RCW 70A.355.090.

**Sec. 18.** RCW 70A.220.020 and 2020 c 20 s 1228 are each amended to read as follows:

~~((1) The provisions of this section and any rules adopted under this section shall be interpreted to conform with nationwide plastics industry standards.~~

~~((2)) Except as provided in RCW 70A.220.030(2), after January 1, 1992, no person may distribute, sell, or offer for sale in this state a plastic bottle or rigid plastic container unless the container is labeled with a code identifying the appropriate resin type used to produce the structure of the container. ((The code shall consist of a number placed within three triangulated arrows and letters placed below the triangle of arrows. The triangulated arrows shall be equilateral, formed by three arrows with the apex of each point of the triangle at the midpoint of each arrow, rounded with a short radius. The pointer (arrowhead) of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the pointer from the base of the adjacent arrow. The triangle, formed by the three arrows curved at their midpoints shall depict a clockwise path around the code number.)) The numbers and letters used shall be as follows:~~

- (a) 1.= PETE (polyethylene terephthalate)
- (b) 2.= HDPE (high density polyethylene)
- (c) 3.= V (vinyl) or PVC (polyvinyl chloride)
- (d) 4.= LDPE (low density polyethylene)
- (e) 5.= PP (polypropylene)
- (f) 6.= PS (polystyrene)
- (g) 7.= OTHER

**NEW SECTION. Sec. 19.** Sections 2 through 7 and 9 through 15 of this act constitute a new chapter in Title 70A RCW.

**NEW SECTION. Sec. 20.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

#### MOTION

Senator Das moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5022.

Senator Das spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Das that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5022.

The motion by Senator Das carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5022 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5022, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5022, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 31; Nays, 18; Absent, 0; Excused, 0.

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

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

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5022, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 6, 2021

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5025 with the following amendment(s): 5025-S AMH CPB H1289.1

Strike everything after the enacting clause and insert the following:

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

(1) Strong consumer protection and antitrust penalties are critical to protecting consumers and ensuring a fair marketplace;

(2) Strong penalties ensure accountability, deter violations, and ensure a level playing field for businesses;

(3) Washington currently does not provide strong penalties for violations of the state's consumer protection act, which prohibits unfair or deceptive acts or practices and unfair methods of competition;

(4) Washington's penalty for unfair or deceptive acts or practices has not kept pace with inflation, and has not increased since 1970;

(5) Washington's penalty for unfair methods of competition has also not kept pace with inflation, and has not increased since 1983;

(6) Consequently, Washington has one of the lowest consumer protection penalties in the United States;

(7) Twenty-four state legislatures representing more than 200 million Americans have passed enhanced penalties for violations that target or impact certain vulnerable populations, but Washington does not have an enhanced penalty;

(8) Many Washingtonians are hurting financially due to the impacts of the global pandemic;

(9) Washington's weak penalties place Washington consumers at greater risk; and

(10) Washingtonians deserve strong consumer protections to ensure entities that illegally, unfairly, and deceptively go after their hard-earned dollars are held accountable.

**Sec. 2.** RCW 19.86.140 and 1983 c 288 s 2 are each amended to read as follows:

Every person who shall violate the terms of any injunction issued as in this chapter provided, shall forfeit and pay a civil penalty of not more than ~~((twenty five thousand dollars))~~ **\$125,000.**

Every ~~((person, other than a corporation,))~~ **individual** who

violates RCW 19.86.030 or 19.86.040 shall pay a civil penalty of not more than ~~((one hundred thousand dollars))~~ **\$180,000.** Every ~~((corporation which))~~ **person, other than an individual, who** violates RCW 19.86.030 or 19.86.040 shall pay a civil penalty of not more than ~~((five hundred thousand dollars))~~ **\$900,000.**

Every person who violates RCW 19.86.020 shall forfeit and pay a civil penalty of not more than ~~((two thousand dollars))~~ **\$7,500** for each violation: PROVIDED, That nothing in this paragraph shall apply to any radio or television broadcasting station which broadcasts, or to any publisher, printer or distributor of any newspaper, magazine, billboard or other advertising medium who publishes, prints or distributes, advertising in good faith without knowledge of its false, deceptive or misleading character.

For unlawful acts or practices that target or impact specific individuals or communities based on demographic characteristics including, but not limited to, age, race, national origin, citizenship or immigration status, sex, sexual orientation, presence of any sensory, mental, or physical disability, religion, veteran status, or status as a member of the armed forces, as that term is defined in 10 U.S.C. Sec. 101, an enhanced penalty of \$5,000 shall apply.

For the purpose of this section the superior court issuing any injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the attorney general acting in the name of the state may petition for the recovery of civil penalties.

With respect to violations of RCW 19.86.030 and 19.86.040, the attorney general, acting in the name of the state, may seek recovery of such penalties in a civil action.

By December 1, 2022, and every five years thereafter, the office of the attorney general shall evaluate the efficacy of the maximum civil penalty amounts established in this section in deterring violations of the consumer protection act and the difference, if any, between the current penalty amounts and the penalty amounts adjusted for inflation, and provide the legislature with a report of its findings and any recommendations in compliance with RCW 43.01.036.

**Sec. 3.** RCW 4.16.160 and 1986 c 305 s 701 are each amended to read as follows:

The limitations prescribed in this chapter shall apply to actions brought in the name or for the benefit of any county or other municipality or quasimunicipality of the state, in the same manner as to actions brought by private parties: PROVIDED, That, except as provided in RCW 4.16.310, there shall be no limitation to actions brought in the name or for the benefit of the state, and no claim of right predicated upon the lapse of time shall ever be asserted against the state, including actions asserting a claim for civil penalties under RCW 19.86.140: AND FURTHER PROVIDED, That no previously existing statute of limitations shall be interposed as a defense to any action brought in the name or for the benefit of the state, although such statute may have run and become fully operative as a defense prior to February 27, 1903, nor shall any cause of action against the state be predicated upon such a statute.

**NEW SECTION. Sec. 4.** This act may be known and cited as the consumer protection improvement act."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Rolfes moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5025.

Senators Rolfes and Padden spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Rolfes that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5025.

The motion by Senator Rolfes carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5025 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5025, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5025, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 19; Absent, 0; Excused, 0.

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, Sheldon, Stanford, Van De Wege, Wagoner, Wellman and Wilson, C.

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

SUBSTITUTE SENATE BILL NO. 5025, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

April 8, 2021

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTED SENATE BILL NO. 5118 with the following amendment(s): 5118-S.E AMH CYF H1308.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.98.010 and 2011 c 336 s 345 are each amended to read as follows:

(1) Whenever a person has entered upon a term of imprisonment in a penal ~~((or))~~ correctional, or juvenile rehabilitation institution of this state, and whenever during the continuance of the term of imprisonment there is pending in this state any untried indictment, information, or complaint against the ~~((prisoner))~~ person, he or she shall be brought to trial within ~~((one hundred twenty))~~ 120 days after he or she shall have caused to be delivered to the prosecuting attorney and the ~~((superior))~~ court ~~((of the county))~~ in which the indictment, information, or complaint is pending written notice of the place of his or her imprisonment and his or her request for a final disposition to be made of the indictment, information, or complaint ~~((PROVIDED, That for))~~. The following time periods shall be excluded from the 120-day calculation:

(a) Arraignment, pretrial proceedings, trial, and sentencing on an unrelated charge in a different county than the court where the charge is pending;

(b) Proceedings related to competency to stand trial on the pending charge, from the entry of an evaluation order to the entry

of a court order finding the person competent to proceed; and

(c) Time during which the person is detained in a federal jail or prison and subject to conditions of release not imposed by the state of Washington.

(2) The superintendent or the superintendent's designee who provides the certificate under subsection (4) of this section shall inform any prosecuting attorney or court requesting transportation of the person to resolve an untried indictment, information, or complaint of the person's current location and availability for trial. If the person is unavailable for transportation due to court proceedings in another county, the superintendent shall inform the prosecuting attorney or court when the person becomes available for transportation and provide a new certificate containing the information under subsection (4) of this section.

(3) For good cause shown in open court, with the ~~((prisoner))~~ person or his or her counsel ~~((shall have))~~ having the right to be present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(4) The request of the ~~((prisoner))~~ person shall be accompanied by a certificate of the superintendent or the superintendent's designee having custody of the ~~((prisoner))~~ person, stating the term of commitment under which the ~~((prisoner))~~ person is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the ~~((time of parole eligibility))~~ earned release date of the ~~((prisoner))~~ person, and any decisions of the indeterminate sentence review board relating to the ~~((prisoner))~~ person.

~~((2))~~ (5) The written notice and request for final disposition referred to in subsection (1) of this section shall be given or sent by the ~~((prisoner))~~ person to the superintendent or the superintendent's designee having custody of him or her, who shall promptly forward it together with the certificate to the appropriate prosecuting attorney and superior, district, municipal, or juvenile court by certified mail, return receipt requested.

~~((3))~~ (6) The superintendent or the superintendent's designee having custody of the ~~((prisoner))~~ person shall promptly inform him or her in writing of the source and contents of any untried indictment, information, or complaint against him or her concerning which the superintendent or the superintendent's designee has knowledge and of his or her right to make a request for final disposition thereof.

~~((4))~~ (7) Escape from custody by the ~~((prisoner))~~ person subsequent to his or her execution of the request for final disposition referred to in subsection (1) of this section shall void the request.

**Sec. 2.** RCW 36.70A.200 and 2020 c 128 s 1 and 2020 c 20 s 1027 are each reenacted and amended to read as follows:

(1)(a) The comprehensive plan of each county and city that is planning under RCW 36.70A.040 shall include a process for identifying and siting essential public facilities. Essential public facilities include those facilities that are typically difficult to site, such as airports, state education facilities and state or regional transportation facilities as defined in RCW 47.06.140, regional transit authority facilities as defined in RCW 81.112.020, state and local correctional facilities, solid waste handling facilities, and inpatient facilities including substance abuse facilities, mental health facilities, group homes, community facilities as defined in RCW 72.05.020, and secure community transition facilities as defined in RCW 71.09.020.

(b) Unless a facility is expressly listed in (a) of this subsection, essential public facilities do not include facilities that are operated by a private entity in which persons are detained in custody under process of law pending the outcome of legal proceedings but are not used for punishment, correction, counseling, or rehabilitation following the conviction of a criminal offense. Facilities included

under this subsection (1)(b) shall not include facilities detaining persons under RCW 71.09.020 (6) or (15) or chapter 10.77 or 71.05 RCW.

(c) The department of children, youth, and families may not attempt to site new community facilities as defined in RCW 72.05.020 east of the crest of the Cascade mountain range unless there is an equal or greater number of sited community facilities as defined in RCW 72.05.020 on the western side of the crest of the Cascade mountain range.

(2) Each county and city planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process, or amend its existing process, for identifying and siting essential public facilities and adopt or amend its development regulations as necessary to provide for the siting of secure community transition facilities consistent with statutory requirements applicable to these facilities.

(3) Any city or county not planning under RCW 36.70A.040 shall, not later than September 1, 2002, establish a process for siting secure community transition facilities and adopt or amend its development regulations as necessary to provide for the siting of such facilities consistent with statutory requirements applicable to these facilities.

(4) The office of financial management shall maintain a list of those essential state public facilities that are required or likely to be built within the next six years. The office of financial management may at any time add facilities to the list.

(5) No local comprehensive plan or development regulation may preclude the siting of essential public facilities.

(6) No person may bring a cause of action for civil damages based on the good faith actions of any county or city to provide for the siting of secure community transition facilities in accordance with this section and with the requirements of chapter 12, Laws of 2001 2nd sp. sess. For purposes of this subsection, "person" includes, but is not limited to, any individual, agency as defined in RCW 42.17A.005, corporation, partnership, association, and limited liability entity.

(7) Counties or cities siting facilities pursuant to subsection (2) or (3) of this section shall comply with RCW 71.09.341.

(8) The failure of a county or city to act by the deadlines established in subsections (2) and (3) of this section is not:

(a) A condition that would disqualify the county or city for grants, loans, or pledges under RCW 43.155.070 or 70A.135.070;

(b) A consideration for grants or loans provided under RCW 43.17.250(3); or

(c) A basis for any petition under RCW 36.70A.280 or for any private cause of action.

**NEW SECTION. Sec. 3.** A new section is added to chapter 13.40 RCW to read as follows:

(1) At least 30 days before release from a residential facility, the secretary shall send written notice of the planned release to the person's health care insurance provider. The notice shall include the person's current location and contact information as well as the person's expected location and contact information upon release. The notice shall not disclose the person's incarceration status unless their consent is given.

(2) If the person is not enrolled in a health insurance program, the secretary and the health care authority shall assist the person in obtaining coverage for which they are eligible in accordance with the time frames specified in subsection (1) of this section.

(3) The secretary may share with the health insurance provider additional health information related to the person to assist with care coordination and continuity of care consistent with RCW 70.02.230(2)(u) and other provisions of chapter 70.02 RCW."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

#### MOTION

Senator Darneille moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5118.

Senators Darneille and Gildon spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Darneille that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5118.

The motion by Senator Darneille carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5118 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5118, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5118, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 33; Nays, 16; Absent, 0; Excused, 0.

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

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

ENGROSSED SUBSTITUTE SENATE BILL NO. 5118, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

April 8, 2021

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5190 with the following amendment(s): 5190-S.E AMH ENGR H1300.E

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; ~~(c)~~

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

(d)(i) A health care worker who left work for the period of quarantine consistent with the recommended guidance from the United States centers for disease control and prevention or subject to the direction of the state or local health jurisdiction because of exposure to or contracting the disease that is the subject of the declaration of the public health emergency.

(ii) For purposes of this subsection, "health care worker" means an individual who worked at a health care facility as defined in RCW 9A.50.010, and was directly involved in the delivery of health services.

(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)(a) During the weeks of a public health emergency, an unemployed health care worker may also meet the requirements of subsection (1)(c) of this section if the unemployed health care worker 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.

(b) For purposes of this subsection, "health care worker" means an individual who worked at a health care facility as defined in RCW 9A.50.010, and was directly involved in the delivery of health services.

**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 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 for the period of quarantine consistent with the recommended guidance from the United States centers for disease control and prevention or subject to the direction of the state or local health jurisdiction 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) ~~((#))~~, (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 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.

(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)(a) 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:

- (i) The date that the worker first missed work due to symptoms of the infectious or contagious disease;
- (ii) The date the worker was quarantined by a medical provider or public health official; or
- (iii) The date the worker received a positive test result confirming contraction of the infectious or contagious disease.

(b) 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) Costs of claims allowed under this section shall not affect

the experience rating of employers insured by the state fund. 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.

(6) 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 has or likely has had 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).

(7) 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.

(8) 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. 7.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

#### MOTION

Senator Holy moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5190.

Senators Holy and Keiser spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Holy that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5190.

The motion by Senator Holy carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5190 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5190, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5190, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 37; Nays, 12; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett,

Mullet, Nguyen, Nobles, Pedersen, Randall, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C. and Wilson, J.

Voting nay: Senators Braun, Brown, Dozier, Ericksen, Fortunato, Honeyford, McCune, Muzzall, Padden, Rivers, Short and Wilson, L.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5190, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

April 5, 2021

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5193 with the following amendment(s): 5193-S.E AMH LAWS H1303.1

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 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:

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) By September 1, 2021, and at least quarterly through September 1, 2022, 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, that includes:

(a) The department's progress in implementing this act;

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

(c) Any software or technology issues related to claims processing, including any issues causing claim delays or inaccurate automated notifications;

(d) Updates on the department's protocols and process for protecting sensitive data; and

(e) Any other relevant unemployment issues, or information related to enhancing the unemployment insurance system, as determined by the department.

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

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Conway moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5193.

Senators Conway and King spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Conway that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5193.

The motion by Senator Conway carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5193 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5193, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5193, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

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

Voting nay: Senators Ericksen and Fortunato

ENGROSSED SUBSTITUTE SENATE BILL NO. 5193, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

April 9, 2021

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5194 with the following amendment(s): 5194-S2.E AMH CWD H1377.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1. INTENT.** The legislature recognizes that student completion rates for workforce training certification and degree programs at community and technical colleges are far lower than desirable to ensure that students may utilize the opportunities of postsecondary education to lift themselves and their families out of poverty and to meet our state's student achievement council road map goals, including for 70 percent of Washington residents to have a postsecondary certification or degree to meet workforce needs. The legislature recognizes that first-generation college-attending students, students with disabilities, and underrepresented minority students face far greater obstacles to apply, remain in school, and complete programs. This disparate impact greatly affects our state's commitment to equity.

The legislature recognizes that offering tuition financial support to first-generation and underrepresented minority students is necessary for students to enroll and attend college but must also be accompanied by proven supports for them to complete their degrees or workforce training programs.

The legislature recognizes that there are mentorship and advising programs based on strong evidence that have been proven to be successful in greatly increasing retention and degree or workforce training completion rates for first-generation students, underrepresented minority students, students with disabilities, and for all students at community and technical colleges. It is the legislature's intent that successful programs such as guided pathways be implemented at all community and technical colleges with the goal of doubling completion rates (as measured by completion in six years) for students in the next eight years. To accomplish this goal, the legislature intends to achieve full implementation of research-based programs to improve student outcomes, such as guided pathways. The legislature affirms that all students receiving Washington college grants, college bound scholarships, or federal Pell grants should receive the supports, including mentoring, that have been proven to increase completion rates.

The legislature further finds that research establishes that students from underrepresented minorities are far more likely to complete degrees or workforce training certification programs if the faculty and staff of the college reflect the diversity of the student body. Therefore, the legislature intends for the state's community and technical colleges to develop and implement plans to increase faculty and staff diversity.

**NEW SECTION. Sec. 2. FINDINGS.** The legislature finds that there is a need to expand investments in community and technical colleges for the purpose of guaranteeing both equitable access and educational success for all residents of the state, particularly for students from communities of color and low-income communities. The legislature finds further that equality of opportunity for all students requires investments to support services that are critical to: The success of students of color and low-income students; provide systemwide equity initiatives intended to make community and technical college campuses welcoming, benevolent places; overcome the digital divide for all students; and provide qualified and available counseling throughout the community and technical college system. The legislature also finds that a more full-time, stable, fairly compensated, and diverse community and technical college faculty is necessary to enhance student success and to improve the mentoring available for a diverse student body. The legislature also finds that resources for student aid and workforce investment need to be adequate to meet the needs of all students in the state, particularly those from families of color and low-income families.

**NEW SECTION. Sec. 3. DIVERSITY, EQUITY, AND INCLUSION STRATEGIC PLAN.** (1) Beginning July 30, 2022, all community and technical colleges must submit, on a biennial basis, strategic plans to the state board for community and technical colleges for achieving diversity, equity, and inclusion of all races on their campuses.

(2) Colleges must create their strategic plans using an inclusive process of stakeholders including, but not limited to, classified staff, faculty, administrative exempt staff, students, and community organizations. Colleges are encouraged to use campus climate surveys to develop and update strategic plans for diversity, equity, and inclusion of all races.

(3) In addition to planning, each community and technical college shall include in its diversity program opportunities for students from historically marginalized communities to form student-based organizations, and to use community-based organizations, that permit students to work together to mentor and assist one another in navigating the educational system and to access trained mentors using evidence-based mentoring strategies.

(4) Each community and technical college shall establish a culturally appropriate outreach program. The outreach program may include communities of color, students with disabilities, neurodiverse communities, and low-income communities and be designed to assist potential students to understand the opportunities available in the community and technical college system. The outreach program may assist students with navigating the student aid system. Outreach programs may include partnerships with appropriate community-based organizations and use research and supports from the student achievement council.

(5) The state board for community and technical colleges shall develop a model faculty diversity program designed to provide for the retention and recruitment of faculty from all racial, ethnic, and cultural backgrounds. The faculty diversity program must be based on proven practices in diversity hiring processes.

(6) Each community and technical college shall conspicuously post on its website and include in the strategic plans, programs, and reports definitions for key terms including: Diversity, equity, inclusion, culturally competent, culturally appropriate, historically marginalized communities, communities of color, low-income communities, and community organizations.

**NEW SECTION. Sec. 4. STUDENT SUCCESS SUPPORT PROGRAMS AND GUIDED PATHWAYS IMPLEMENTATION.** (1) Subject to availability of amounts appropriated for this specific purpose, each community and technical college shall fully implement guided pathways. At a minimum, guided pathways implementation must include:

(a) Comprehensive mapping of student educational pathways with student end goals in mind. These must include transparent and clear career paths that are tightly aligned to the skills sought by employers. Pathways must align course sequences to show clear paths for students, alignment with K-12 and university curriculum, and skill sets needed to enter the workforce;

(b) Dedicated advising and career counseling that helps students make informed program choices and develop completion plans. Advising services may include processes that help students explore possible career and educational choices while also emphasizing early planning. Advising must be culturally competent and with an emphasis on helping historically underserved, low-income, and students of color navigate their education;

(c) Data analysis of student learning as well as program and service outcomes. Data must be used to inform program development, the creation and further refinement of student pathways, and to provide opportunities for early intervention to help students succeed; and

(d) A student success support infrastructure using programs that the state board for community and technical colleges finds have been effective in closing equity gaps among historically underserved student populations and improve student completion rates. The student success support program must be based on research or documented evidence of success. In tandem with guided pathways implementation, student success support programs may include evidence-based elements such as:

- (i) Equity competent academic advising services;
- (ii) Equity competent career development programming;
- (iii) Clear information regarding financial aid and financial literacy; and
- (iv) Inclusive curriculum and teaching practices.

(2) Each community and technical college shall post on its website and include in the guided pathways program documentation and reports definitions for key terms including: Diversity, equity, inclusion, culturally competent, culturally

appropriate, historically marginalized communities, communities of color, low-income communities, and community organizations.

(3)(a) The Washington state institute for public policy, in consultation with the workforce education investment accountability and oversight board under RCW 28C.18.200, shall complete an evaluation of the guided pathways model. To the extent possible, the institute shall complete a preliminary report that evaluates the effect of the guided pathways model on early student outcomes including, but not limited to, student retention and persistence, college level English and math within the first year, and graduation and transfer rates. The preliminary report must review the implementation of the guided pathways model in Washington and any available evidence of the effectiveness of the guided pathways model. The preliminary report must be submitted by December 15, 2023.

(b) The Washington state institute for public policy shall complete a final report that evaluates the effect of the guided pathways on longer-term student outcomes including, but not limited to, degree completion, time to degree, transfer to four-year institutions, employment, and earnings, to the extent possible. The final report must be submitted by December 15, 2029.

(c) Both the preliminary and final reports must consider differences in outcomes by racial and ethnic subgroups and socioeconomic status.

**NEW SECTION. Sec. 5. TENURE-TRACK FACULTY.**

(1) The legislature recognizes that student outcomes and success, especially for first generation, underserved students, may be significantly improved by increasing the number of full-time faculty at community and technical colleges.

(a) The legislature's goal is that community and technical colleges increase the numbers of full-time tenured positions by adding 200 new full-time tenure-track positions in the 2021-2023 fiscal biennium.

(b) This goal is best accomplished through converting part-time faculty positions to full-time tenure-track positions and by hiring new full-time faculty through processes identified in each college's diversity, equity, and inclusion of all races strategic plan described in section 3 of this act. If specific funding for the purpose of conversion assignments proposed in this section is not provided in the omnibus appropriations act, the conversion assignments proposed must be delayed until such time as specific funding is provided.

(c) The college board must collect data and assess the impact of the 200 additional full-time tenure-track faculty on student completion rates. The college board must convene representatives of faculty, staff, and administration to report on outcomes as a result of increasing full-time tenure-track faculty. In consultation with representatives of faculty, staff, and administration, the college board must make recommendations about future steps to increase full-time tenure-track faculty that incorporate faculty diversity and historically underserved communities. The college board must report the results of its assessment, along with next step recommendations, to the legislature by December 15, 2023. The college board shall conspicuously post on its website and include in the report definitions for key terms including: Diversity, equity, inclusion, culturally competent, culturally appropriate, historically marginalized communities, communities of color, low-income communities, and community organizations.

(2) This section expires July 1, 2024.

**NEW SECTION. Sec. 6. MENTAL HEALTH COUNSELOR PILOT PROGRAM.** (1) Subject to the availability of amounts appropriated for this specific purpose, the

college board shall administer a pilot program to increase student access to mental health counseling and services.

(2) The college board, in collaboration with the selection committee, shall select community or technical colleges to participate in the pilot program. At least half of the participating colleges must be located outside of the Puget Sound area. For purposes of this section, "Puget Sound area" means Snohomish, King, Pierce, and Thurston counties. Each participating college must receive a grant to implement one or more strategies to increase student access to mental health counseling and services, including substance use disorder counseling and services.

(3)(a) A selection committee consisting of the following shall assist with the application selection process:

(i) One community or technical college president;

(ii) One community or technical college vice president for student services or student instruction;

(iii) Two faculty counselors employed at a community or technical college; and

(iv) One community or technical college student.

(b) The selection committee may consult with representatives of an entity within a college or university that has expertise in suicide prevention and the department of health in developing selection criteria.

(4) Community and technical colleges wishing to participate in the pilot program shall apply to the college board. Applicants must identify opportunities for expanding on-campus mental health counseling and services. Applicants must also show a commitment to further develop partnerships by engaging external community providers, including those who provide crisis services and substance use disorder treatment and counseling. Applications that demonstrate plans to include one or more of the following strategies recommended by the community and technical college counselors task force must be prioritized:

(a) Improve equity, diversity, and inclusion of all races in counseling services, such as by diversifying the counselor workforce by adopting equity-centered recruiting, training, and retention practices or by providing equity training and awareness for all counselors;

(b) Meet mental health needs of students through an all-campus effort;

(c) Engage students to help increase mental health and counseling awareness and promote help-seeking behavior through student groups and other methods;

(d) Increase the visibility of counseling services on campus;

(e) Increase or expand external partnerships with community service providers;

(f) Adopt the use of telebehavioral health, especially in under resourced communities;

(g) Develop an assessment of counseling services to inform improvements and ensure counseling services are meeting student needs; or

(h) Implement counseling approaches grounded in theory that have evidence of being effective.

(5) Colleges selected to participate in the pilot program that use grant funding to hire additional mental health counselors must hire counselors who have specific graduate-level training for meeting the mental and behavioral health needs of students.

(6) Colleges selected to participate in the pilot program shall submit a joint report to the appropriate committees of the legislature and in accordance with RCW 43.01.036 by November 1, 2023. The report must include:

(a) Information on which colleges were selected for the pilot program, how much grant funding was received per college, and what strategies each implemented to increase student access to mental health counseling and services;

(b) Demographic data of students accessing mental health counseling and services, including those students who are considered underrepresented or traditionally have limited access to mental health counseling and services;

(c) Whether the mental health counseling and services provided are meeting the demand of students in terms of type and availability, and whether the various types of mental health counseling and services are being provided by community providers versus on-campus services;

(d) Information and data on the effectiveness, including cost-effectiveness, of each strategy used to increase student access to mental health counseling and services, including substance use disorder counseling and services, such as the number of additional students served, reduced wait times for counseling appointments, or other data that reflects expanded access; and

(e) Lessons learned and recommendations for improving student access to mental health counseling and services at community and technical colleges and to community providers, including whether there were any strategies implemented that proved more effective than others in increasing access.

(7) Colleges selected for the pilot program shall conspicuously post on their websites and include in the report to the legislature the definitions for key terms including: Diversity, equity, inclusion, culturally competent, culturally appropriate, historically marginalized communities, communities of color, low-income communities, and community organizations.

(8) The pilot program expires July 1, 2025.

(9) This section expires January 1, 2026.

**NEW SECTION. Sec. 7. MINIMUM COUNSELOR STANDARDS.** (1) It is the intent of the legislature to provide clear minimum standards to ensure qualified faculty counselors while also providing flexibility to allow for differences in criteria required by hiring institutions. Within existing resources, and beginning September 1, 2021, the college board shall adopt rules regarding the minimum hiring standards for a faculty counselor. At a minimum, these must include:

- (a) A graduate or professional degree in a related field;
- (b) Completion of appropriate graduate coursework; and
- (c) Standards established by the state board for community and technical colleges.

(2) The requirements and standards imposed through this section do not apply to an individual employed by a college district as a counselor before September 1, 2021. Counselors who began employment at one college district prior to September 1, 2021, and moved employment to a different college district after that date may carry the exemptions from the requirements and standards imposed through this section to their new place of employment.

**Sec. 8.** RCW 28B.96.010 and 2020 c 326 s 2 are each amended to read as follows:

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

(1) "Eligible student" means a student who:

- (a) Is a resident student;
- (b) Demonstrates financial need as defined in RCW 28B.92.030;
- (c) Has indicated they will attend an institution of higher education or is making satisfactory progress in a program, as defined in rule by the office, at an institution of higher education;
- (d) Fills out the Washington application for state financial aid; and

(e) Does not qualify for federally funded student financial aid because of their citizenship status.

(2) "Institution of higher education" has the same meaning as in RCW 28B.92.030.

(3) "Office" means the office of student financial assistance created in RCW 28B.76.090.

(4) "Participant" means an eligible student who has received an undocumented student support loan.

(5) "Resident student" means:

(a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(b) A dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution;

(c) Any student:

(i) Who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state;

(ii) Whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school; and

(iii) Who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year; or

(d) Any person(=

~~(i) Who has completed the full senior year of high school and obtained a high school diploma, both at a Washington public high school or private high school approved under chapter 28A.195 RCW, or a person who has received the equivalent of a diploma;~~

~~(ii) Who has lived in Washington for at least three years immediately prior to receiving the diploma or its equivalent;~~

~~(iii) Who has continuously lived in the state of Washington after receiving the diploma or its equivalent and until such time as the individual is admitted to an institution of higher education; and~~

~~(iv) Who provides to the institution an affidavit indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so and a willingness to engage in any other activities necessary to acquire citizenship, including but not limited to citizenship or civics review courses)) who meets the requirements under RCW 28B.15.012(2)(e).~~

**Sec. 9.** RCW 28B.15.012 and 2020 c 232 s 1 are each amended to read as follows:

Whenever used in this chapter:

(1) The term "institution" shall mean a public university, college, or community or technical college within the state of Washington.

(2) The term "resident student" shall mean:

(a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(b) A dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution;

(c) A student classified as a resident based upon domicile by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-1983 academic year, so long as such student's enrollment (excepting summer sessions) at an institution in this state is continuous;

(d) Any student who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year;

(e) Any person who has completed ~~((the full senior year of high school))~~ and obtained a high school diploma, ~~((both at a Washington public high school or private high school approved under chapter 28A.195 RCW,))~~ or a person who has received the equivalent of a diploma; ~~((who has lived in Washington for at least three years immediately prior to receiving the diploma or its equivalent;))~~ who has continuously lived in the state of Washington ~~((after receiving the diploma or its equivalent and until such time as))~~ for at least a year before the individual is admitted to an institution of higher education under subsection (1) of this section; and who provides to the institution an affidavit indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so and a willingness to engage in any other activities necessary to acquire citizenship, including but not limited to citizenship or civics review courses;

(f) Any person who has lived in Washington, primarily for purposes other than educational, for at least one year immediately before the date on which the person has enrolled in an institution, and who holds lawful nonimmigrant status pursuant to 8 U.S.C. Sec. (a)(15) (E)(iii), (H)(i), or (L), or who holds lawful nonimmigrant status as the spouse or child of a person having nonimmigrant status under one of those subsections, or who, holding or having previously held such lawful nonimmigrant status as a principal or derivative, has filed an application for adjustment of status pursuant to 8 U.S.C. Sec. 1255(a);

(g) A student who is on active military duty stationed in the state or who is a member of the Washington national guard;

(h) A student who is on active military duty or a member of the Washington national guard who meets the following conditions:

- (i) Entered service as a Washington resident;
- (ii) Has maintained a Washington domicile; and
- (iii) Is stationed out-of-state;

(i) A student who is the spouse or a dependent of a person defined in (g) of this subsection. If the person defined in (g) of this subsection is reassigned out-of-state, the student maintains the status as a resident student so long as the student is either:

- (i) Admitted to an institution before the reassignment and enrolls in that institution for the term the student was admitted; or
- (ii) Enrolled in an institution and remains continuously enrolled at the institution;

(j) A student who is the spouse or a dependent of a person defined in (h) of this subsection;

(k) A student who is eligible or entitled to transferred federal post-9/11 veterans educational assistance act of 2008 (38 U.S.C. Sec. 3301 et seq.) benefits based on the student's relationship as a spouse, former spouse, or child to an individual who is on active duty in the uniformed services;

(l) A student who resides in the state of Washington and is the spouse or a dependent of a person who is a member of the Washington national guard;

(m) A student who has separated from the uniformed services with any period of honorable service after at least ninety days of active duty service; is eligible for educational assistance benefits under Title 38 U.S.C.; and enters an institution of higher education in Washington within three years of the date of separation;

(n) A student who is on terminal, transition, or separation leave pending separation, or release from active duty, from the uniformed services with any period of honorable service after at least ninety days of active duty service and is eligible for educational assistance benefits under Title 38 U.S.C.;

(o) A student who is entitled to veterans administration educational assistance benefits based on the student's relationship as a spouse, former spouse, or child to an individual who has separated from the uniformed services with any period of honorable service after at least ninety days of active duty service, and who enters an institution of higher education in Washington within three years of the service member's date of separation;

(p) A student who is the spouse or child to an individual who has separated from the uniformed services with at least ten years of honorable service and at least ninety days of active duty service, and who enters an institution of higher education in Washington within three years of the service member's date of separation;

(q) A student who has separated from the uniformed services who was discharged due to the student's sexual orientation or gender identity or expression;

(r) A student who is entitled to veterans administration educational assistance benefits based on the student's relationship with a deceased member of the uniformed services who died in the line of duty;

(s) A student who is entitled to federal vocational rehabilitation and employment services for veterans with service-connected disabilities under 38 U.S.C. Sec. 3102(a);

(t) A student who is defined as a covered individual in 38 U.S.C. Sec. 3679(c)(2) as it existed on July 28, 2019, or such subsequent date as the student achievement council may determine by rule;

(u) A student of an out-of-state institution of higher education who is attending a Washington state institution of higher education pursuant to a home tuition agreement as described in RCW 28B.15.725;

(v) A student who meets the requirements of RCW 28B.15.0131 or 28B.15.0139: PROVIDED, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that the student has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(w) A student who resides in Washington and is on active military duty stationed in the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington; or

(x) A student who resides in Washington and is the spouse or a dependent of a person defined in (w) of this subsection. If the person defined in (w) of this subsection moves from Washington or is reassigned out of the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington, the student maintains the status as a resident student so long as the student resides in Washington and is either:



(i) Admitted to an institution before the reassignment and enrolls in that institution for the term the student was admitted; or  
 (ii) Enrolled in an institution and remains continuously enrolled at the institution.

(3)(a) A student who qualifies under subsection (2)(k), (m), (n), (o), (p), (q), (r), (s), or (t) of this section and who remains continuously enrolled at an institution of higher education shall retain resident student status.

(b) Nothing in subsection (2)(k), (m), (n), (o), (p), (q), (r), (s), or (t) of this section applies to students who have a dishonorable discharge from the uniformed services, or to students who are the spouse or child of an individual who has had a dishonorable discharge from the uniformed services, unless the student is receiving veterans administration educational assistance benefits.

(4) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of this section and RCW 28B.15.013. Except for students qualifying under subsection (2)(e) or (u) of this section, a nonresident student shall include:

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter. This condition shall not apply to students from Columbia, Multnomah, Clatsop, Clackamas, or Washington county, Oregon participating in the border county pilot project under RCW 28B.76.685, 28B.76.690, and 28B.15.0139.

(b) A person who is not a citizen of the United States of America, unless the person meets and complies with all applicable requirements in this section and RCW 28B.15.013 and is one of the following:

- (i) A lawful permanent resident;
- (ii) A temporary resident;
- (iii) A person who holds "refugee-parolee," "conditional entrant," or U or T nonimmigrant status with the United States citizenship and immigration services;
- (iv) A person who has been issued an employment authorization document by the United States citizenship and immigration services that is valid as of the date the person's residency status is determined;

(v) A person who has been granted deferred action for childhood arrival status before, on, or after June 7, 2018, regardless of whether the person is no longer or will no longer be granted deferred action for childhood arrival status due to the termination, suspension, or modification of the deferred action for childhood arrival program; or

(vi) A person who is otherwise permanently residing in the United States under color of law, including deferred action status.

(5) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where the student intends to remain, and to which the student expects to return when the student leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(6) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules adopted by the student achievement council and shall include, but not be limited to, the state and federal income tax returns of the person and/or the student's parents or legal guardian filed for the calendar year prior to the year in which application is made and such other evidence as the council may require.

(7) The term "active military duty" means the person is serving on active duty in:

- (a) The armed forces of the United States government; or
- (b) The Washington national guard; or
- (c) The coast guard, merchant mariners, or other nonmilitary organization when such service is recognized by the United States government as equivalent to service in the armed forces.

(8) The term "active duty service" means full-time duty, other than active duty for training, as a member of the uniformed services of the United States. Active duty service as a national guard member under Title 32 U.S.C. for the purpose of organizing, administering, recruiting, instructing, or training and active service under 32 U.S.C. Sec. 502(f) for the purpose of responding to a national emergency is recognized as active duty service.

(9) The term "uniformed services" is defined by Title 10 U.S.C.; subsequently structured and organized by Titles 14, 33, and 42 U.S.C.; consisting of the United States army, United States marine corps, United States navy, United States air force, United States coast guard, United States public health service commissioned corps, and the national oceanic and atmospheric administration commissioned officer corps.

NEW SECTION. Sec. 10. Sections 1 through 7 of this act are each added to chapter 28B.50 RCW.

NEW SECTION. Sec. 11. This act may be known and cited as the our colleges our future act of 2021."  
 Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

MOTION

Senator Liias moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5194.

Senator Liias spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Liias that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5194.

The motion by Senator Liias carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5194 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5194, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5194, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 19; Absent, 0; Excused, 0.

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

Voting nay: Senators Braun, Brown, Dozier, Erickson, Fortunato, Gildon, Hawkins, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Short, Wagoner, Warnick,

Wilson, J. and Wilson, L.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5194, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 9, 2021

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5227 with the following amendment(s): 5227-S2.E AMH ENGR H1309.E

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that a postsecondary credential such as a degree, apprenticeship, or certificate is increasingly necessary to obtain a job that offers a good salary and advancement opportunities and that increasing the number of students in Washington who obtain such a credential is essential to the state's economic success. The legislature also recognizes that equity gaps remain among postsecondary students and that those gaps particularly impact students from historically marginalized communities.

The legislature finds that developing and maintaining a culture of belonging and support for students, faculty, and staff at institutions of higher education is essential to student success, and that faculty and staff play a key role. The legislature therefore seeks to ensure that public institutions of higher education provide faculty and staff, as well as students, with training to give them tools to address matters related to antiracism, diversity, equity, and inclusion.

The legislature further finds it necessary to regularly analyze the impact of that training on the campus community and to identify any measures needed to increase diversity, equity, and inclusion. Accordingly, the legislature intends that each public institution of higher education assess the learning, working, and living environment on campus that students, faculty, and staff experience to better understand the evolving state of diversity, equity, and inclusion.

**NEW SECTION. Sec. 2.** A new section is added to chapter 28B.10 RCW to read as follows:

(1) Each institution of higher education must:

(a) Provide professional development, either existing or new, focused on diversity, equity, inclusion, and antiracism for faculty and staff. This program must be developed in partnership with the institution's administration, faculty, staff, and student leadership groups. Efforts must be made to ensure the program is developed and delivered by individuals with innate and acquired experience and expertise in the field of diversity, equity, and inclusion. The content framework for professional development must be posted on each institution's public website for parents and community members. The professional development must begin in the 2022-23 academic year;

(b) Create an evaluation for professional development participants. The evaluations must, at minimum, capture a participant's level of satisfaction with the professional development opportunity, the degree to which the learning objectives were achieved, and how the knowledge gained may be applied to their work;

(c)(i) Share completed evaluations of program participants annually with either the state board for community and technical

colleges or an organization representing the presidents of the public four-year institutions of higher education, depending on the institution; and (ii) submit curriculum and other pertinent information regarding the program beginning July 1, 2023, and, subsequently, if there is a meaningful change or by request of the reporting entity.

(2) The purpose of each professional development program curriculum must be rooted in eliminating structural racism against all races and promoting diversity, equity, and inclusion while improving academic, social, and health and wellness outcomes for students from historically marginalized communities. The program must also include elements that focus on commonalities and humanity. Institutions of higher education may further develop a curriculum that is reflective of the needs of the campus community.

(3)(a) Beginning with the 2022-23 academic year, every new faculty and staff member at an institution of higher education must participate in the program, regardless of whether they are a full-time or part-time employee. All faculty and staff participating in the professional development program must complete an evaluation. Other faculty and staff may participate in the professional development program as needed or required by their institution. Each institution must develop a goal of at least 80 percent of their total faculty and staff completing the professional development program every two years and report on their goal's progress in the report established in section 5 of this act. Each institution may determine how to show progress towards their goal. Part-time faculty and staff who are employed at more than one institution of higher education are only required to complete the professional development program at one institution if they provide proof of completion to their other institution of higher education employers to receive credit for participation.

(b) Beginning with the 2024-25 academic year, 35 percent of tenured faculty and 35 percent of administrators at each institution of higher education must complete the professional development program every two years, regardless of whether they are a full-time or part-time employee.

(4) The state board for community and technical colleges and an organization representing the presidents of the public four-year institutions of higher education may conduct further analysis of the professional development programs through participant evaluation data, use of focus groups, or other methods to determine promising practices. The state board for community and technical colleges and an organization representing the presidents of the public four-year institutions of higher education must post a list of model standards and promising practices for professional development on their public websites for parents and community members.

(5) The institutions of higher education shall adopt rules as necessary or appropriate for effecting the provisions of this section, not in conflict with this chapter, and in accordance with the provisions of chapter 34.05 RCW, the administrative procedure act.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28B.10 RCW to read as follows:

(1)(a) The institutions of higher education as defined in RCW 28B.10.016 shall each conduct a campus climate assessment to understand the current state of diversity, equity, and inclusion in the learning, working, and living environment on campus for students, faculty, and staff. The assessment shall occur, at minimum, every five years. Institutions of higher education shall use the results of the campus climate assessment to inform the professional development, established in section 2 of this act, and program, established in section 4 of this act. Institutions may use an existing campus climate assessment to meet this requirement.

(b) The state board for community and technical colleges shall develop a model campus climate assessment for the community and technical colleges that the colleges may use or modify to meet the requirements of this section.

(2) The design of an existing or new campus climate assessment must involve, at minimum, students, college and university diversity officers, faculty, and staff. The campus climate assessment must include, at minimum, an evaluation of student and employee attitudes and awareness of campus diversity, equity, and inclusion issues. The campus climate assessment may also include questions evaluating the prevalence of discrimination, sexual assault, harassment, and retaliation on and off campus, in addition to student, faculty, and staff knowledge of campus policies and procedures addressing discrimination, sexual assault, harassment, and retaliation. College and university diversity officers and students must be consulted in the development of recommendations.

(3) Institutions of higher education must, at minimum, conduct annual listening and feedback sessions for diversity, equity, and inclusion for the entire campus community during periods between campus climate assessments. Institutions of higher education must, to the maximum extent practicable, compensate students for their participation in the annual listening and feedback sessions.

(4) Beginning July 1, 2022, the institutions of higher education shall report findings or progress in completing their campus climate assessment and, when applicable, information on their listening and feedback sessions annually to either the state board for community and technical colleges or an organization representing the presidents of the public four-year institutions of higher education. The institutions of higher education must also publish annually on the institution's public website the results of either the campus climate assessment or listening and feedback sessions.

(5) The state board for community and technical colleges may require colleges to repeat their campus climate assessment. An organization representing the presidents of the public four-year institutions of higher education may also request state universities, regional universities, and The Evergreen State College to repeat their campus climate assessment.

**NEW SECTION. Sec. 4.** A new section is added to chapter 28B.10 RCW to read as follows:

(1) Each institution of higher education must:

(a) Provide a program, either existing or new, on diversity, equity, inclusion, and antiracism to students beginning with the 2024-25 academic year. Institutions of higher education may expand the focus of its program to reflect the needs of the campus community. This program must be developed in partnership with the institution's administration, faculty, staff, and student leadership groups. Efforts should be made to ensure the program is developed and delivered by individuals with innate and acquired experience and expertise in the field of diversity, equity, and inclusion. The content framework for each program must be posted on each institution's public website for parents and community members; and

(b) Create an evaluation for program participants. The evaluation must, at minimum, capture a participant's level of satisfaction with the program and how they will apply the program to their education.

(2) The purpose of each program must be rooted in eliminating structural racism against all races and promoting diversity, equity, and inclusion while improving outcomes for students from historically marginalized communities. The program must also include elements that focus on commonalities and humanity.

Institutions of higher education may further develop a curriculum that is reflective of the needs of the campus community.

(3) During the 2024-25 academic year, all degree-seeking students at institutions of higher education must participate in the program, regardless of whether they are a full-time or part-time student. Beginning with the 2025-26 academic year, the program is only required for degree-seeking students who are new or have transferred to the institution and have not yet participated in a required diversity, equity, inclusion, and antiracism program at an institution of higher education. Students must be allowed to opt out of participation in the program if they self-attest to taking a diversity, equity, inclusion, and antiracism training at an institution of higher education within the previous five years.

(4) The state board for community and technical colleges and an organization representing the presidents of the public four-year institutions of higher education may conduct further analysis of the programs, through participant evaluation data, use of focus groups, or other methods to determine promising practices. The state board for community and technical colleges and an organization representing the presidents of the public four-year institutions of higher education must post a list of model standards and promising practices for programs on their public websites for parents and community members.

(5) The institutions of higher education shall adopt rules as necessary or appropriate for effecting the provisions of this section, not in conflict with this chapter, and in accordance with the provisions of chapter 34.05 RCW, the administrative procedure act.

(6) For purposes of this section, "student" or "students" does not include nonmatriculated students.

**NEW SECTION. Sec. 5.** A new section is added to chapter 28B.10 RCW to read as follows:

By December 31, 2024, and biennially thereafter, the state board for community and technical colleges and an organization representing the presidents of the public four-year institutions of higher education shall each submit a report to the higher education committees of the legislature in accordance with RCW 43.01.036 for their respective institutions of higher education. The reports must include the following:

(1) Information on the professional development programs implemented by each institution of higher education, including updates on progress towards meeting the goal outlined in section 1 of this act;

(2) A summary of results of the campus climate assessments and other relevant information received by the institutions of higher education; and

(3) By December 31, 2026, and biennially thereafter, the reports must also include information on the student diversity, equity, inclusion, and antiracism programs implemented by each institution of higher education.

**NEW SECTION. Sec. 6.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

## MOTION

Senator Randall moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5227.

Senator Randall spoke in favor of the motion.

Senator Holy spoke on the motion.

The President declared the question before the Senate to be the motion by Senator Randall that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5227.

The motion by Senator Randall carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5227 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5227, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5227, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 32; Nays, 17; Absent, 0; Excused, 0.

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

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

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5227, as amended by the House, 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.

## MESSAGE FROM THE HOUSE

March 28, 2021

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 5236 with the following amendment(s): 5236-S AMH HCW H1258.2

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 70.38.111 and 2020 c 258 s 1 are each amended to read as follows:

(1) The department shall not require a certificate of need for the offering of an inpatient tertiary health service by:

(a) A health maintenance organization or a combination of health maintenance organizations if (i) the organization or combination of organizations has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals, (ii) the facility in which the service will be provided is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with

such organization or organizations in the combination;

(b) A health care facility if (i) the facility primarily provides or will provide inpatient health services, (ii) the facility is or will be controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations which has, in the service area of the organization or service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals, (iii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iv) at least seventy-five percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization or organizations in the combination; or

(c) A health care facility (or portion thereof) if (i) the facility is or will be leased by a health maintenance organization or combination of health maintenance organizations which has, in the service area of the organization or the service areas of the organizations in the combination, an enrollment of at least fifty thousand individuals and, on the date the application is submitted under subsection (2) of this section, at least fifteen years remain in the term of the lease, (ii) the facility is or will be geographically located so that the service will be reasonably accessible to such enrolled individuals, and (iii) at least seventy-five percent of the patients who can reasonably be expected to receive the tertiary health service will be individuals enrolled with such organization;

if, with respect to such offering or obligation by a nursing home, the department has, upon application under subsection (2) of this section, granted an exemption from such requirement to the organization, combination of organizations, or facility.

(2) A health maintenance organization, combination of health maintenance organizations, or health care facility shall not be exempt under subsection (1) of this section from obtaining a certificate of need before offering a tertiary health service unless:

(a) It has submitted at least thirty days prior to the offering of services reviewable under RCW 70.38.105(4)(d) an application for such exemption; and

(b) The application contains such information respecting the organization, combination, or facility and the proposed offering or obligation by a nursing home as the department may require to determine if the organization or combination meets the requirements of subsection (1) of this section or the facility meets or will meet such requirements; and

(c) The department approves such application. The department shall approve or disapprove an application for exemption within thirty days of receipt of a completed application. In the case of a proposed health care facility (or portion thereof) which has not begun to provide tertiary health services on the date an application is submitted under this subsection with respect to such facility (or portion), the facility (or portion) shall meet the applicable requirements of subsection (1) of this section when the facility first provides such services. The department shall approve an application submitted under this subsection if it determines that the applicable requirements of subsection (1) of this section are met.

(3) A health care facility (or any part thereof) with respect to which an exemption was granted under subsection (1) of this section may not be sold or leased and a controlling interest in such facility or in a lease of such facility may not be acquired and a health care facility described in (1)(c) which was granted an exemption under subsection (1) of this section may not be used by any person other than the lessee described in (1)(c) unless:

(a) The department issues a certificate of need approving the sale, lease, acquisition, or use; or

(b) The department determines, upon application, that (i) the

entity to which the facility is proposed to be sold or leased, which intends to acquire the controlling interest, or which intends to use the facility is a health maintenance organization or a combination of health maintenance organizations which meets the requirements of (1)(a)(i), and (ii) with respect to such facility, meets the requirements of (1)(a)(ii) or (iii) or the requirements of (1)(b)(i) and (ii).

(4) In the case of a health maintenance organization, an ambulatory care facility, or a health care facility, which ambulatory or health care facility is controlled, directly or indirectly, by a health maintenance organization or a combination of health maintenance organizations, the department may under the program apply its certificate of need requirements to the offering of inpatient tertiary health services to the extent that such offering is not exempt under the provisions of this section or RCW 70.38.105(7).

(5)(a) The department shall not require a certificate of need for the construction, development, or other establishment of a nursing home, or the addition of beds to an existing nursing home, that is owned and operated by a continuing care retirement community that:

- (i) Offers services only to contractual members;
- (ii) Provides its members a contractually guaranteed range of services from independent living through skilled nursing, including some assistance with daily living activities;
- (iii) Contractually assumes responsibility for the cost of services exceeding the member's financial responsibility under the contract, so that no third party, with the exception of insurance purchased by the retirement community or its members, but including the medicaid program, is liable for costs of care even if the member depletes his or her personal resources;
- (iv) Has offered continuing care contracts and operated a nursing home continuously since January 1, 1988, or has obtained a certificate of need to establish a nursing home;
- (v) Maintains a binding agreement with the state assuring that financial liability for services to members, including nursing home services, will not fall upon the state;
- (vi) Does not operate, and has not undertaken a project that would result in a number of nursing home beds in excess of one for every four living units operated by the continuing care retirement community, exclusive of nursing home beds; and
- (vii) Has obtained a professional review of pricing and long-term solvency within the prior five years which was fully disclosed to members.

(b) A continuing care retirement community shall not be exempt under this subsection from obtaining a certificate of need unless:

- (i) It has submitted an application for exemption at least thirty days prior to commencing construction of, is submitting an application for the licensure of, or is commencing operation of a nursing home, whichever comes first; and
- (ii) The application documents to the department that the continuing care retirement community qualifies for exemption.
- (c) The sale, lease, acquisition, or use of part or all of a continuing care retirement community nursing home that qualifies for exemption under this subsection shall require prior certificate of need approval to qualify for licensure as a nursing home unless the department determines such sale, lease, acquisition, or use is by a continuing care retirement community that meets the conditions of (a) of this subsection.

(6) A rural hospital, as defined by the department, reducing the number of licensed beds to become a rural primary care hospital under the provisions of Part A Title XVIII of the Social Security Act Section 1820, 42 U.S.C., 1395c et seq. may, within three

years of the reduction of beds licensed under chapter 70.41 RCW, increase the number of licensed beds to no more than the previously licensed number without being subject to the provisions of this chapter.

(7) A rural health care facility licensed under RCW 70.175.100 formerly licensed as a hospital under chapter 70.41 RCW may, within three years of the effective date of the rural health care facility license, apply to the department for a hospital license and not be subject to the requirements of RCW 70.38.105(4)(a) as the construction, development, or other establishment of a new hospital, provided there is no increase in the number of beds previously licensed under chapter 70.41 RCW and there is no redistribution in the number of beds used for acute care or long-term care, the rural health care facility has been in continuous operation, and the rural health care facility has not been purchased or leased.

(8) A rural hospital determined to no longer meet critical access hospital status for state law purposes as a result of participation in the Washington rural health access preservation pilot identified by the state office of rural health and formerly licensed as a hospital under chapter 70.41 RCW may apply to the department to renew its hospital license and not be subject to the requirements of RCW 70.38.105(4)(a) as the construction, development, or other establishment of a new hospital, provided there is no increase in the number of beds previously licensed under chapter 70.41 RCW. If all or part of a formerly licensed rural hospital is sold, purchased, or leased during the period the rural hospital does not meet critical access hospital status as a result of participation in the Washington rural health access preservation pilot and the new owner or lessor applies to renew the rural hospital's license, then the sale, purchase, or lease of part or all of the rural hospital is subject to the provisions of this chapter.

(9)(a) A nursing home that voluntarily reduces the number of its licensed beds to provide assisted living, licensed assisted living facility care, adult day care, adult day health, respite care, hospice, outpatient therapy services, congregate meals, home health, or senior wellness clinic, or to reduce to one or two the number of beds per room or to otherwise enhance the quality of life for residents in the nursing home, may convert the original facility or portion of the facility back, and thereby increase the number of nursing home beds to no more than the previously licensed number of nursing home beds without obtaining a certificate of need under this chapter, provided the facility has been in continuous operation and has not been purchased or leased. Any conversion to the original licensed bed capacity, or to any portion thereof, shall comply with the same life and safety code requirements as existed at the time the nursing home voluntarily reduced its licensed beds; unless waivers from such requirements were issued, in which case the converted beds shall reflect the conditions or standards that then existed pursuant to the approved waivers.

(b) To convert beds back to nursing home beds under this subsection, the nursing home must:

(i) Give notice of its intent to preserve conversion options to the department of health no later than thirty days after the effective date of the license reduction; and

(ii) Give notice to the department of health and to the department of social and health services of the intent to convert beds back. If construction is required for the conversion of beds back, the notice of intent to convert beds back must be given, at a minimum, one year prior to the effective date of license modification reflecting the restored beds; otherwise, the notice must be given a minimum of ninety days prior to the effective date of license modification reflecting the restored beds. Prior to

any license modification to convert beds back to nursing home beds under this section, the licensee must demonstrate that the nursing home meets the certificate of need exemption requirements of this section.

The term "construction," as used in (b)(ii) of this subsection, is limited to those projects that are expected to equal or exceed the expenditure minimum amount, as determined under this chapter.

(c) Conversion of beds back under this subsection must be completed no later than four years after the effective date of the license reduction. However, for good cause shown, the four-year period for conversion may be extended by the department of health for one additional four-year period.

(d) Nursing home beds that have been voluntarily reduced under this section shall be counted as available nursing home beds for the purpose of evaluating need under RCW 70.38.115(2) (a) and (k) so long as the facility retains the ability to convert them back to nursing home use under the terms of this section.

(e) When a building owner has secured an interest in the nursing home beds, which are intended to be voluntarily reduced by the licensee under (a) of this subsection, the applicant shall provide the department with a written statement indicating the building owner's approval of the bed reduction.

(10)(a) The department shall not require a certificate of need for a hospice agency if:

(i) The hospice agency is designed to serve the unique religious or cultural needs of a religious group or an ethnic minority and commits to furnishing hospice services in a manner specifically aimed at meeting the unique religious or cultural needs of the religious group or ethnic minority;

(ii) The hospice agency is operated by an organization that:

(A) Operates a facility, or group of facilities, that offers a comprehensive continuum of long-term care services, including, at a minimum, a licensed, medicare-certified nursing home, assisted living, independent living, day health, and various community-based support services, designed to meet the unique social, cultural, and religious needs of a specific cultural and ethnic minority group;

(B) Has operated the facility or group of facilities for at least ten continuous years prior to the establishment of the hospice agency;

(iii) The hospice agency commits to coordinating with existing hospice programs in its community when appropriate;

(iv) The hospice agency has a census of no more than forty patients;

(v) The hospice agency commits to obtaining and maintaining medicare certification;

(vi) The hospice agency only serves patients located in the same county as the majority of the long-term care services offered by the organization that operates the agency; and

(vii) The hospice agency is not sold or transferred to another agency.

(b) The department shall include the patient census for an agency exempted under this subsection (10) in its calculations for future certificate of need applications.

(11) To alleviate the need to board psychiatric patients in emergency departments and increase capacity of hospitals to serve individuals on ninety-day or one hundred eighty-day commitment orders, for the period of time from May 5, 2017, through June 30, ~~((2024))~~ 2023:

(a) The department shall suspend the certificate of need requirement for a hospital licensed under chapter 70.41 RCW that changes the use of licensed beds to increase the number of beds to provide psychiatric services, including involuntary treatment services. A certificate of need exemption under this subsection (11)(a) shall be valid for two years.

(b) The department may not require a certificate of need for:

(i) The addition of beds as described in RCW 70.38.260 (2) and (3); or

(ii) The construction, development, or establishment of a psychiatric hospital licensed as an establishment under chapter 71.12 RCW that will have no more than sixteen beds and provide treatment to adults on ninety or one hundred eighty-day involuntary commitment orders, as described in RCW 70.38.260(4).

(12)(a) An ambulatory surgical facility is exempt from all certificate of need requirements if the facility:

(i) Is an individual or group practice and, if the facility is a group practice, the privilege of using the facility is not extended to physicians outside the group practice;

(ii) Operated or received approval to operate, prior to January 19, 2018; and

(iii) Was exempt from certificate of need requirements prior to January 19, 2018, because the facility either:

(A) Was determined to be exempt from certificate of need requirements pursuant to a determination of reviewability issued by the department; or

(B) Was a single-specialty endoscopy center in existence prior to January 14, 2003, when the department determined that endoscopy procedures were surgeries for purposes of certificate of need.

(b) The exemption under this subsection:

(i) Applies regardless of future changes of ownership, corporate structure, or affiliations of the individual or group practice as long as the use of the facility remains limited to physicians in the group practice; and

(ii) Does not apply to changes in services, specialties, or number of operating rooms.

(13) A rural health clinic providing health services in a home health shortage area as declared by the department pursuant to 42 C.F.R. Sec. 405.2416 is not subject to certificate of need review under this chapter.

**Sec. 2.** RCW 70.38.260 and 2019 c 324 s 9 are each amended to read as follows:

(1) For a grant awarded during fiscal years 2018 and 2019 by the department of commerce under this section, hospitals licensed under chapter 70.41 RCW and psychiatric hospitals licensed as establishments under chapter 71.12 RCW are not subject to certificate of need requirements for the addition of the number of new psychiatric beds indicated in the grant. The department of commerce may not make a prior approval of a certificate of need application a condition for a grant application under this section. The period during which an approved hospital or psychiatric hospital project qualifies for a certificate of need exemption under this section is two years from the date of the grant award.

(2)(a) Until June 30, ~~((2024))~~ 2023, a hospital licensed under chapter 70.41 RCW is exempt from certificate of need requirements for the addition of new psychiatric beds.

(b) A hospital that adds new psychiatric beds under this subsection (2) must:

(i) Notify the department of the addition of new psychiatric beds. The department shall provide the hospital with a notice of exemption within thirty days; and

(ii) Commence the project within two years of the date of receipt of the notice of exemption.

(c) Beds granted an exemption under RCW 70.38.111(11)(b) must remain psychiatric beds unless a certificate of need is granted to change their use or the hospital voluntarily reduces its licensed capacity.

(3)(a) Until June 30, ~~((2024))~~ 2023, a psychiatric hospital

licensed as an establishment under chapter 71.12 RCW is exempt from certificate of need requirements for the one-time addition of up to ~~((thirty)) 30~~ new psychiatric beds ~~((and for the one-time addition of up to sixty psychiatric beds devoted solely to ninety-day and one hundred eighty-day civil commitment patients if the hospital was awarded any grant by the department of commerce to increase behavioral health capacity in fiscal year 2019 and))~~ devoted solely for 90-day and 180-day civil commitment services and for the one-time addition of up to 30 new voluntary psychiatric beds or involuntary psychiatric beds for patients on a 120 hour detention or 14-day civil commitment order, if the hospital makes a commitment to maintain a payer mix of at least fifty percent medicare and medicaid based on a calculation using patient days for a period of five consecutive years after the beds are made available for use by patients, if it demonstrates to the satisfaction of the department:

(i) That its most recent two years of publicly available fiscal year-end report data as required under RCW 70.170.100 and 43.70.050 reported to the department by the psychiatric hospital, show a payer mix of a minimum of fifty percent medicare and medicaid based on a calculation using patient days; and

(ii) A commitment to maintaining the payer mix in (a) of this subsection for a period of five consecutive years after the beds are made available for use by patients.

(b) A psychiatric hospital that adds new psychiatric beds under this subsection (3) must:

(i) Notify the department of the addition of new psychiatric beds. The department shall provide the psychiatric hospital with a notice of exemption within thirty days; and

(ii) Commence the project within two years of the date of receipt of the notice of exemption.

(c) Beds granted an exemption under RCW 70.38.111(1)(b) must remain the types of psychiatric beds indicated to the department in the original exemption application unless a certificate of need is granted to change their use or the psychiatric hospital voluntarily reduces its licensed capacity.

(4)(a) Until June 30, ~~((2021)) 2023~~, an entity seeking to construct, develop, or establish a psychiatric hospital licensed as an establishment under chapter 71.12 RCW is exempt from certificate of need requirements if the proposed psychiatric hospital will have no more than sixteen beds and dedicate a portion of the beds to providing treatment to adults on ninety or one hundred eighty-day involuntary commitment orders. The psychiatric hospital may also provide treatment to adults on a ~~((seventy-two)) 120~~ hour detention or ~~((fourteen-day)) 14-day~~ involuntary commitment order.

(b) An entity that seeks to construct, develop, or establish a psychiatric hospital under this subsection (4) must:

(i) Notify the department of the addition of construction, development, or establishment. The department shall provide the entity with a notice of exemption within thirty days; and

(ii) Commence the project within two years of the date of receipt of the notice of exemption.

(c) Entities granted an exemption under RCW 70.38.111(1)(b)(ii) may not exceed sixteen beds unless a certificate of need is granted to increase the psychiatric hospital's capacity.

(5) This section expires June 30, 2025.

**NEW SECTION. Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2021."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

#### MOTION

Senator Warnick moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5236.

Senators Warnick and Dhingra spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Warnick that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5236.

The motion by Senator Warnick carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5236 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5236, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5236, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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, Lias, 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.

SUBSTITUTE SENATE BILL NO. 5236, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

March 24, 2021

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5313 with the following amendment(s): 5313-S2 AMH CODY H1369.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 49.60.178 and 2020 c 52 s 9 are each amended to read as follows:

(1) It is an unfair practice for any person whether acting for himself, herself, or another in connection with an insurance transaction or transaction with a health maintenance organization to cancel or fail or refuse to issue or renew insurance or a health maintenance agreement to any person because of sex, marital status, sexual orientation, race, creed, color, national origin, citizenship or immigration status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with disabilities: PROVIDED, That a practice which is not unlawful under RCW 48.30.300, 48.44.220, ~~((or)) 48.46.370, or 48.43.0128~~ does not constitute an unfair practice for the purposes of this section. For the purposes of this

section, "insurance transaction" is defined in RCW 48.01.060, health maintenance agreement is defined in RCW 48.46.020, and "health maintenance organization" is defined in RCW 48.46.020.

(2) The fact that such unfair practice may also be a violation of chapter 48.30, 48.43, 48.44, or 48.46 RCW does not constitute a defense to an action brought under this section.

(3) The insurance commissioner, under RCW 48.30.300 and 48.43.0128, and the human rights commission, under chapter 49.60 RCW, shall have concurrent jurisdiction under this section and shall enter into a working agreement as to procedure to be followed in complaints under this section.

**Sec. 2.** RCW 41.05.017 and 2019 c 427 s 21 are each amended to read as follows:

Each health plan that provides medical insurance offered under this chapter, including plans created by insuring entities, plans not subject to the provisions of Title 48 RCW, and plans created under RCW 41.05.140, are subject to the provisions of RCW 48.43.500, 70.02.045, 48.43.505 through 48.43.535, 48.43.537, 48.43.545, 48.43.550, 70.02.110, 70.02.900, 48.43.190, 48.43.083, 48.43.0128, and chapter 48.49 RCW.

**Sec. 3.** RCW 48.43.0128 and 2020 c 228 s 9 are each amended to read as follows:

(1) A health carrier offering a nongrandfathered health plan or a plan deemed by the commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular, full-time undergraduate student at an accredited higher education institution may not:

(a) In its benefit design or implementation of its benefit design, discriminate against individuals because of their age, expected length of life, present or predicted disability, degree of medical dependency, quality of life, or other health conditions; and

(b) With respect to the health plan or plan deemed by the commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular, full-time undergraduate student at an accredited higher education institution, discriminate on the basis of race, color, national origin, disability, age, sex, gender identity, or sexual orientation.

(2) Nothing in this section may be construed to prevent ~~((an issuer))~~ a carrier from appropriately utilizing reasonable medical management techniques.

(3) For health plans issued or renewed on or after January 1, 2022:

(a) A health carrier may not deny or limit coverage for gender affirming treatment when that treatment is prescribed to an individual because of, related to, or consistent with a person's gender expression or identity, as defined in RCW 49.60.040, is medically necessary, and is prescribed in accordance with accepted standards of care.

(b) A health carrier may not apply categorical cosmetic or blanket exclusions to gender affirming treatment. When prescribed as medically necessary gender affirming treatment, a health carrier may not exclude as cosmetic services facial feminization surgeries and other facial gender affirming treatment, such as tracheal shaves, hair electrolysis, and other care such as mastectomies, breast reductions, breast implants, or any combination of gender affirming procedures, including revisions to prior treatment.

(c) A health carrier may not issue an adverse benefit determination denying or limiting access to gender affirming services, unless a health care provider with experience prescribing or delivering gender affirming treatment has reviewed and confirmed the appropriateness of the adverse benefit determination.

(d) Health carriers must comply with all network access rules and requirements established by the commissioner.

(4) For the purposes of this section, "gender affirming treatment" means a service or product that a health care provider, as defined in RCW 70.02.010, prescribes to an individual to treat any condition related to the individual's gender identity and is prescribed in accordance with generally accepted standards of care. Gender affirming treatment must be covered in a manner compliant with the federal mental health parity and addiction equity act of 2008 and the federal affordable care act. Gender affirming treatment can be prescribed to two spirit, transgender, nonbinary, intersex, and other gender diverse individuals.

(5) Nothing in this section may be construed to mandate coverage of a service that is not medically necessary.

(6) By December 1, 2022, the commissioner, in consultation with the health care authority and the department of health, must issue a report on geographic access to gender affirming treatment across the state. The report must include the number of gender affirming providers offering care in each county, the carriers and Medicaid managed care organizations those providers have active contracts with, and the types of services provided by each provider in each region. The commissioner must update the report biannually and post the report on its website.

(7) The commissioner shall adopt any rules necessary to implement subsections (3), (4), and (5) of this section.

(8) Unless preempted by federal law, the commissioner shall adopt any rules necessary to implement subsections (1) and (2) of this section, consistent with federal rules and guidance in effect on January 1, 2017, implementing the patient protection and affordable care act.

**NEW SECTION. Sec. 4.** A new section is added to chapter 74.09 RCW to read as follows:

(1) In the provision of gender affirming care services through programs under this chapter, the authority, managed care plans, and providers that administer or deliver such services may not discriminate in the delivery of a service provided through a program of the authority based on the covered person's gender identity or expression.

(2) Beginning January 1, 2022:

(a) The authority and any managed care plans delivering or administering services purchased or contracted for by the authority may not apply categorical cosmetic or blanket exclusions to gender affirming treatment.

(b) Facial feminization surgeries and facial gender affirming treatment, such as tracheal shaves, hair electrolysis, and other care such as mastectomies, breast reductions, breast implants, or any combination of gender affirming procedures, including revisions to prior treatment, when prescribed as gender affirming treatment, may not be excluded as cosmetic.

(c) The authority and managed care plans administering services purchased or contracted for by the authority may not issue an adverse benefit determination denying or limiting access to gender affirming treatment, unless a health care provider with experience prescribing or delivering gender affirming treatment has reviewed and confirmed the appropriateness of the adverse benefit determination.

(d) If the authority and managed care plans administering services purchased or contracted for by the authority do not have an adequate network for gender affirming treatment, they shall ensure the delivery of timely and geographically accessible medically necessary gender affirming treatment at no greater expense than if they had an in-network, geographically accessible provider available. This includes, but is not limited to, providing case management services to secure out-of-network gender affirming treatment options that are available to the enrollee in a



timely manner within their geographic region. The enrollee shall pay no more than the same cost sharing that the enrollee would pay for the same covered services received from an in-network provider.

(3) For the purposes of this section, "gender affirming treatment" means a service or product that a health care provider, as defined in RCW 70.02.010, prescribes to an individual to support and affirm the individual's gender identity. Gender affirming treatment includes, but is not limited to, treatment for gender dysphoria. Gender affirming treatment can be prescribed to two spirit, transgender, nonbinary, and other gender diverse individuals.

(4) Nothing in this section may be construed to mandate coverage of a service that is not medically necessary.

(5) The authority shall adopt rules necessary to implement this section.

**NEW SECTION. Sec. 5.** This act shall be known and cited as the Gender Affirming Treatment Act."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

MOTION

Senator Liias moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5313.

Senators Liias and Muzzall spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Liias that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5313.

The motion by Senator Liias carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5313 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5313, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5313, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 30; Nays, 19; Absent, 0; Excused, 0.

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, Sheldon, Stanford, Van De Wege, Wellman, Wilson, C. and Wilson, J.

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

SECOND SUBSTITUTE SENATE BILL NO. 5313, as amended by the House, 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.

MESSAGE FROM THE HOUSE

April 8, 2021

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5377 with the following amendment(s): 5377-S2.E AMH ENGR H1523.E

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 43.71 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, a premium assistance and cost-sharing reduction program is hereby established to be administered by the exchange.

(2) Premium assistance and cost-sharing reduction amounts must be established by the exchange within parameters established in the omnibus appropriations act.

(3) The exchange must establish, consistent with the omnibus appropriations act:

(a) Procedural requirements for eligibility and continued participation in any premium assistance program or cost-sharing program established under this section, including participant documentation requirements that are necessary to administer the program; and

(b) Procedural requirements for facilitating payments to carriers.

(4) Subject to the availability of amounts appropriated for this specific purpose, an individual is eligible for premium assistance and cost-sharing reductions under this section if the individual:

(a)(i) Is a resident of the state;

(ii) Has income that is up to an income threshold determined through appropriation or by the exchange if no income threshold is determined through appropriation;

(iii) Is enrolled in a silver or gold standard plan offered in the enrollee's county of residence;

(iv) Applies for and accepts all federal advance premium tax credits for which they may be eligible before receiving any state premium assistance;

(v) Applies for and accepts all federal cost-sharing reductions for which they may be eligible before receiving any state cost-sharing reductions;

(vi) Is ineligible for minimum essential coverage through medicare, a federal or state medical assistance program administered by the authority under chapter 74.09 RCW, or for premium assistance under RCW 43.71A.020; and

(vii) Meets any other eligibility criteria established by the exchange; or

(b) Meets alternate eligibility criteria as established in the omnibus appropriations act.

(5)(a) The exchange may disqualify an individual from receiving premium assistance or cost-sharing reductions under this section if the individual:

(i) No longer meets the eligibility criteria in subsection (4) of this section;

(ii) Fails, without good cause, to comply with any procedural or documentation requirements established by the exchange in accordance with subsection (3) of this section;

(iii) Fails, without good cause, to notify the exchange of a change of address in a timely manner;

(iv) Voluntarily withdraws from the program; or

(v) Performs an act, practice, or omission that constitutes fraud, and, as a result, an issuer rescinds the individual's policy for the qualified health plan.

(b) The exchange must develop a process for an individual to appeal a premium assistance or cost-sharing assistance eligibility

determination from the exchange.

(6) Prior to establishing or altering premium assistance or cost-sharing reduction amounts, eligibility criteria, or procedural requirements under this section, the exchange must:

(a) Publish notice of the proposal on the exchange's website and provide electronic notice of the proposal to any person who has requested such notice. The notice must include an explanation of the proposal, the date, time, and location of the public hearing required in (b) of this subsection, and instructions and reasonable timelines to submit written comments on the proposal;

(b) Conduct at least one public hearing no sooner than 20 days after publishing the notice required in (a) of this subsection; and

(c) Publish notice of the finalized premium assistance or cost-sharing reduction amounts, eligibility criteria, or procedural requirements on the exchange's website and provide the notice electronically to any person who has requested it. The notice must include a detailed description of the finalized premium assistance or cost-sharing reduction amounts, eligibility criteria, or procedural requirements and a description and explanation of how they vary from the initial proposal.

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

(a) "Advance premium tax credit" means the premium assistance amount determined in accordance with the federal patient protection and affordable care act, P.L. 111-148, as amended by the federal health care and education reconciliation act of 2010, P.L. 111-152, or federal regulations or guidance issued under the affordable care act.

(b) "Income" means the modified adjusted gross income attributed to an individual for purposes of determining his or her eligibility for advance premium tax credits.

(c) "Standard plan" means a standardized health plan under RCW 43.71.095.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.71 RCW to read as follows:

(1) The exchange, in close consultation with the authority and the office of the insurance commissioner, must explore all opportunities to apply to the secretary of health and human services under 42 U.S.C. Sec. 18052 for a waiver or other available federal flexibilities to:

(a) Receive federal funds for the implementation of the premium assistance or cost-sharing reduction programs established under section 1 of this act;

(b) Increase access to qualified health plans; and

(c) Implement or expand other exchange programs that increase affordability of or access to health insurance coverage in Washington state.

(2) If, through the process described in subsection (1) of this section an opportunity to submit a waiver is identified, the exchange, in collaboration with the office of the insurance commissioner and the health care authority, may develop an application under this section to be submitted by the health care authority. If an application is submitted, the health care authority must notify the chairs and ranking minority members of the appropriate policy and fiscal committees of the legislature.

(3) Any application submitted under this section must meet all federal public notice and comment requirements under 42 U.S.C. Sec. 18052(a)(4)(B), including public hearings to ensure a meaningful level of public input.

**NEW SECTION. Sec. 3.** A new section is added to chapter 43.71 RCW to read as follows:

(1) The state health care affordability account is created in the state treasury. Expenditures from the account may only be used for premium and cost-sharing assistance programs established in section 1 of this act.

(2) The following funds must be deposited in the account:

(a) Any grants, donations, or contributions of money collected for purposes of the premium assistance or cost-sharing reduction programs established in section 4 of this act;

(b) Any federal funds received by the health benefit exchange pursuant to section 2 of this act; and

(c) Any additional funding specifically appropriated to the account.

**NEW SECTION. Sec. 4.** A new section is added to chapter 48.43 RCW to read as follows:

For qualified health plans offered on the exchange, a carrier shall:

(1) Accept payments for enrollee premiums or cost-sharing assistance under section 1 of this act or as part of a sponsorship program under RCW 43.71.030(4). Nothing in this subsection expands or restricts the types of sponsorship programs authorized under state and federal law;

(2) Clearly communicate premium assistance amounts to enrollees as part of the invoicing and payment process; and

(3) Accept and process enrollment and payment data transferred by the exchange in a timely manner.

**NEW SECTION. Sec. 5.** A new section is added to chapter 41.05 RCW to read as follows:

(1) If a public option plan is not available in each county in the state during plan year 2022 or later, the following requirements apply for all subsequent plan years:

(a) Upon an offer from a public option plan, a hospital licensed under chapter 70.41 RCW that receives payment for services provided to enrollees in the public employees' benefits program or school employees' benefits program, or through a medical assistance program under chapter 74.09 RCW, must contract with at least one public option plan to provide in-network services to enrollees of that plan. This subsection (1)(a) does not apply to a hospital owned and operated by a health maintenance organization licensed under chapter 48.46 RCW; and

(b) The authority shall contract, under RCW 41.05.410, with one or more health carriers to offer at least one standardized bronze, one standardized silver, and one standardized gold qualified health plan in every county in the state or in each county within a region of the state.

(2) Health carriers and hospitals may not condition negotiations or participation of a hospital licensed under chapter 70.41 RCW in any health plan offered by the health carrier on the hospital's negotiations or participation in a public option plan.

(3) By December 1st of the plan year during which enrollment in public option plans statewide is greater than 10,000 covered lives:

(a) The health benefit exchange, in consultation with the insurance commissioner and the authority, shall analyze public option plan rates paid to hospitals for in-network services and whether they have impacted hospital financial sustainability. The analysis must include any impact on hospitals' operating margins during the years public option health plans have been offered in the state and the estimated impact on operating margins in future years if enrollment in public option plans increases. It must also examine the income levels of public option plan enrollees over time. The analysis may examine a sample of hospitals of various sizes and located in various counties. In conducting its analysis, the exchange must give substantial weight to any available reporting of health care provider and health system costs under RCW 70.390.050;

(b) The health care cost transparency board established under chapter 70.390 RCW shall analyze the effect that enrollment in public option plans has had on consumers, including an analysis of the benefits provided to, and premiums and cost-sharing

amounts paid by, consumers enrolled in public option plans compared to other standardized and nonstandardized qualified health plans; and

(c) The health benefit exchange, in consultation with the insurance commissioner, the authority, and interested stakeholders, including, but not limited to, statewide associations representing hospitals, health insurers, and physicians, shall review the analyses completed under (a) and (b) of this subsection and develop recommendations to the legislature to address financial or other issues identified in the analyses.

(4) The authority may adopt program rules, in consultation with the office of the insurance commissioner, to ensure compliance with this section, including levying fines and taking other contract actions it deems necessary to enforce compliance with this section.

(5) For the purposes of this section, "public option plan" means a qualified health plan contracted by the authority under RCW 41.05.410.

**Sec. 6.** RCW 41.05.410 and 2019 c 364 s 3 are each amended to read as follows:

(1) The authority, in consultation with the health benefit exchange, must contract with one or more health carriers to offer qualified health plans on the Washington health benefit exchange for plan years beginning in 2021. A health carrier contracting with the authority under this section must offer at least one bronze, one silver, and one gold qualified health plan in a single county or in multiple counties. The goal of the procurement conducted under this section is to have a choice of qualified health plans under this section offered in every county in the state. The authority may not execute a contract with an apparently successful bidder under this section until after the insurance commissioner has given final approval of the health carrier's rates and forms pertaining to the health plan to be offered under this section and certification of the health plan under RCW 43.71.065.

(2) A qualified health plan offered under this section must meet the following criteria:

(a) The qualified health plan must be a standardized health plan established under RCW 43.71.095;

(b) The qualified health plan must meet all requirements for qualified health plan certification under RCW 43.71.065 including, but not limited to, requirements relating to rate review and network adequacy;

(c) The qualified health plan must incorporate recommendations of the Robert Bree collaborative and the health technology assessment program;

(d) The qualified health plan may use an integrated delivery system or a managed care model that includes care coordination or care management to enrollees as appropriate;

(e) The qualified health plan must meet additional participation requirements to reduce barriers to maintaining and improving health and align to state agency value-based purchasing. These requirements may include, but are not limited to, standards for population health management; high-value, proven care; health equity; primary care; care coordination and chronic disease management; wellness and prevention; prevention of wasteful and harmful care; and patient engagement;

(f) To reduce administrative burden and increase transparency, the qualified health plan's utilization review processes must:

(i) Be focused on care that has high variation, high cost, or low evidence of clinical effectiveness; and

(ii) Meet national accreditation standards;

(g) ~~((+))~~ The total amount the qualified health plan reimburses providers and facilities for all covered benefits in the statewide aggregate, excluding pharmacy benefits, may not exceed one

hundred sixty percent of the total amount medicare would have reimbursed providers and facilities for the same or similar services in the statewide aggregate;

~~((ii) Beginning in calendar year 2023, if the authority determines that selective contracting will result in actuarially sound premium rates that are no greater than the qualified health plan's previous plan year rates adjusted for inflation using the consumer price index, the director may, in consultation with the health benefit exchange, waive (g)(i) of this subsection as a requirement of the contracting process under this section.))~~

(h) For services provided by rural hospitals certified by the centers for medicare and medicaid services as critical access hospitals or sole community hospitals, the rates may not be less than one hundred one percent of allowable costs as defined by the United States centers for medicare and medicaid services for purposes of medicare cost reporting;

(i) Reimbursement for primary care services, as defined by the authority, provided by a physician with a primary specialty designation of family medicine, general internal medicine, or pediatric medicine, may not be less than one hundred thirty-five percent of the amount that would have been reimbursed under the medicare program for the same or similar services; and

(j) The qualified health plan must comply with any requirements established by the authority to address amounts expended on pharmacy benefits including, but not limited to, increasing generic utilization and use of evidence-based formularies.

(3)(a) At the request of the authority for monitoring, enforcement, or program and quality improvement activities, a qualified health plan offered under this section must provide cost and quality of care information and data to the authority, and may not enter into an agreement with a provider or third party that would restrict the qualified health plan from providing this information or data.

(b) Pursuant to RCW 42.56.650, any cost or quality information or data submitted to the authority is exempt from public disclosure.

(4) Nothing in this section prohibits a health carrier offering qualified health plans under this section from offering other health plans in the individual market.

**Sec. 7.** RCW 43.71.095 and 2019 c 364 s 1 are each amended to read as follows:

(1) The exchange, in consultation with the commissioner, the authority, an independent actuary, and other stakeholders, must establish up to three standardized health plans for each of the bronze, silver, and gold levels.

(a) The standardized health plans must be designed to reduce deductibles, make more services available before the deductible, provide predictable cost sharing, maximize subsidies, limit adverse premium impacts, reduce barriers to maintaining and improving health, and encourage choice based on value, while limiting increases in health plan premium rates.

(b) The exchange may update the standardized health plans annually.

(c) The exchange must provide a notice and public comment period before finalizing each year's standardized health plans.

(d) The exchange must provide written notice of the standardized health plans to licensed health carriers by January 31st before the year in which the health plans are to be offered on the exchange. The exchange may make modifications to the standardized plans after January 31st to comply with changes to state or federal law or regulations.

(2)(a) Beginning January 1, 2021, any health carrier offering a qualified health plan on the exchange must offer ~~((one))~~ the silver

~~((standardized health plan))~~ and ~~((one))~~ gold standardized health plans established under this section on the exchange in each county where the carrier offers a qualified health plan. If a health carrier offers a bronze health plan on the exchange, it must offer ~~((one))~~ the bronze standardized health plans established under this section on the exchange in each county where the carrier offers a qualified health plan.

(b)(i) ~~((A))~~ Until December 31, 2022, a health ((plan)) carrier offering a standardized health plan under this section may also offer nonstandardized health plans on the exchange. Beginning January 1, 2023, a health carrier offering a standardized health plan under this section may also offer up to two nonstandardized gold health plans, two nonstandardized bronze health plans, one nonstandardized silver health plan, one nonstandardized platinum health plan, and one nonstandardized catastrophic health plan in each county where the carrier offers a qualified health plan.

(ii) The exchange, in consultation with the office of the insurance commissioner, shall analyze the impact to exchange consumers of offering only standard plans beginning in 2025 and submit a report to the appropriate committees of the legislature by December 1, 2023. The report must include an analysis of how plan choice and affordability will be impacted for exchange consumers across the state, including an analysis of offering a bronze standardized high deductible health plan compatible with a health savings account, and a gold standardized health plan closer in actuarial value to the silver standardized health plan.

(iii) The actuarial value of nonstandardized silver health plans offered on the exchange may not be less than the actuarial value of the standardized silver health plan with the lowest actuarial value.

(c) A health carrier offering a standardized health plan on the exchange under this section must continue to meet all requirements for qualified health plan certification under RCW 43.71.065 including, but not limited to, requirements relating to rate review and network adequacy."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

#### MOTION

Senator Frockt moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5377.

Senators Frockt and Muzzall spoke in favor of the motion.

#### POINT OF INQUIRY

Senator Cleveland: "Thank you. I would like to ask in Section 5.1A of the bill, it requires that hospitals contract with at least one public option plan upon receiving an offer from a public option plan. If the Health Care Authority under Section 5.1B of this legislation chooses to contract with more than one carrier to offer public option plans in a county, must the hospital contract with more than one carrier?"

Senator Frockt: "Yes. We believe the answer to that is yes. The language of Section 5.1A directs a hospital that receives payment for services provided to, provided by Medicaid, PEBB or SEBB enrollees have at least one public option plan and if they receive an offer from the public option carrier. If the Health Care Authority chooses to contract with more than one carrier in a given year, in a particular county, to offer public option plans in a county under that section, under Section 5.1B, the hospital also

must contract with any public option plans that makes an offer to that hospital. So that clarifies that question. Thank you, Mr. President.

The President declared the question before the Senate to be the motion by Senator Frockt that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5377.

The motion by Senator Frockt carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5377 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5377, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5377, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 28; Nays, 21; Absent, 0; Excused, 0.

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, Ericksen, Fortunato, Gildon, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5377, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

April 7, 2021

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5399 with the following amendment(s): 5399-S2.E AMH APP H1486.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that:

(a) Healthy Washingtonians contribute to the economic well-being of their families and communities, and access to appropriate health services and improved health outcomes allow all Washingtonian families to enjoy productive and satisfying lives;

(b) Washington and the United States are experiencing the deepest economic crisis since the Great Depression, caused by a public health crisis;

(c) Skyrocketing unemployment rates due to COVID-19 have exposed the frailties and inequalities of the current health care system while causing unsustainable strain to the state's medicaid system;

(d) Thousands of union and nonunion workers are unemployed and without health insurance;

(e) Approximately 125,000 undocumented people live in the state with no access to health care during a global pandemic;

(f) Multiple economic analyses show that a universal system is

less expensive, more equitable, and will produce billions in savings per year; and

(g) While a unified health care financing system can provide universal coverage, increase access to care, decrease costs, and improve quality, implementing such a system in the state is dependent on foundational legal, financial, and programmatic changes from the federal government.

(2) The legislature intends to create a permanent universal health care commission to:

(a) Implement immediate and impactful changes in the state's current health care system to increase access to quality, affordable health care by streamlining access to coverage, reducing fragmentation of health care financing across multiple public and private health insurance entities, reducing unnecessary administrative costs, reducing health disparities, and establishing mechanisms to expeditiously link residents with their chosen providers; and

(b) Establish the preliminary infrastructure to create a universal health system, including a unified financing system, that controls health care spending so that the system is affordable to the state, employers, and individuals, once the necessary federal authorities have been realized.

(3) The legislature further intends that the state, in collaboration with all communities, health plans, and providers, should take steps to improve health outcomes for all residents of the state.

**NEW SECTION. Sec. 2.** A new section is added to chapter 41.05 RCW to read as follows:

(1) The universal health care commission is established to create immediate and impactful changes in the health care access and delivery system in Washington and to prepare the state for the creation of a health care system that provides coverage and access for all Washington residents through a unified financing system once the necessary federal authority has become available. The authority must begin any necessary federal application process within 60 days of its availability.

(2) The commission includes the following voting members:

(a) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house of representatives;

(b) One member from each of the two largest caucuses of the senate, appointed by the president of the senate;

(c) The secretary of the department of health, or the secretary's designee;

(d) The director of the health care authority, or the director's designee;

(e) The chief executive officer of the Washington health benefit exchange, or the chief executive officer's designee;

(f) The insurance commissioner, or the commissioner's designee;

(g) The director of the office of equity, or the director's designee; and

(h) Six members appointed by the governor, using an equity lens, with knowledge and experience regarding health care coverage, access, and financing, or other relevant expertise, including at least one consumer representative and at least one invitation to an individual representing tribal governments with knowledge of the Indian health care delivery in the state.

(3)(a) The governor must appoint the chair of the commission from any of the members identified in subsection (2) of this section for a term of no more than three years. A majority of the voting members of the commission shall constitute a quorum for any votes of the commission.

(b) The commission's meetings shall be open to the public

pursuant to chapter 42.30 RCW. The authority must publish on its website the dates and locations of commission meetings, agendas of prior and upcoming commission meetings, and meeting materials for prior and upcoming commission meetings.

(4) The health care authority shall staff the commission.

(5) Members of the commission shall serve without compensation but must be reimbursed for their travel expenses while on official business in accordance with RCW 43.03.050 and 43.03.060.

(6) The commission may establish advisory committees that include members of the public with knowledge and experience in health care, in order to support stakeholder engagement and an analytical process by which key design options are developed. A member of an advisory committee need not be a member of the commission.

(7) By November 1, 2022, the commission shall submit a baseline report to the legislature and the governor, and post it on the authority's website. The report must include:

(a) A complete synthesis of analyses done on Washington's existing health care finance and delivery system, including cost, quality, workforce, and provider consolidation trends and how they impact the state's ability to provide all Washingtonians with timely access to high quality, affordable health care;

(b) A strategy for developing implementable changes to the state's health care financing and delivery system to increase access to health care services and health coverage, reduce health care costs, reduce health disparities, improve quality, and prepare for the transition to a unified health care financing system by actively examining data and reports from sources that are monitoring the health care system. Such sources shall include data or reports from the health care cost transparency board under RCW 70.390.070, the public health advisory board, the governor's interagency coordinating council on health disparities under RCW 43.20.275, the all-payer health care claims database established under chapter 43.371 RCW, prescription drug price data, performance measure data under chapter 70.320 RCW, and other health care cost containment programs;

(c) An inventory of the key design elements of a universal health care system including:

(i) A unified financing system including, but not limited to, a single-payer financing system;

(ii) Eligibility and enrollment processes and requirements;

(iii) Covered benefits and services;

(iv) Provider participation;

(v) Effective and efficient provider payments, including consideration of global budgets and health plan payments;

(vi) Cost containment and savings strategies that are designed to assure that total health care expenditures do not exceed the health care cost growth benchmark established under chapter 70.390 RCW;

(vii) Quality improvement strategies;

(viii) Participant cost sharing, if appropriate;

(ix) Quality monitoring and disparities reduction;

(x) Initiatives for improving culturally appropriate health services within public and private health-related agencies;

(xi) Strategies to reduce health disparities including, but not limited to, mitigating structural racism and other determinants of health as set forth by the office of equity;

(xii) Information technology systems and financial management systems;

(xiii) Data sharing and transparency; and

(xiv) Governance and administration structure, including integration of federal funding sources;

(d) An assessment of the state's current level of preparedness

to meet the elements of (c) of this subsection and steps Washington should take to prepare for a just transition to a unified health care financing system, including a single-payer financing system. Recommendations must include, but are not limited to, administrative changes, reorganization of state programs, retraining programs for displaced workers, federal waivers, and statutory and constitutional changes;

(e) Recommendations for implementing reimbursement rates for health care providers serving medical assistance clients who are enrolled in programs under chapter 74.09 RCW at a rate that is no less than 80 percent of the rate paid by medicare for similar services;

(f) Recommendations for coverage expansions to be implemented prior to and consistent with a universal health care system, including potential funding sources; and

(g) Recommendations for the creation of a finance committee to develop a financially feasible model to implement universal health care coverage using state and federal funds.

(8) Following the submission of the baseline report on November 1, 2022, the commission must structure its work to continue to further identify opportunities to implement reforms consistent with subsection (7)(b) of this section and to implement structural changes to prepare the state for a transition to a unified health care financing system. The commission must submit annual reports to the governor and the legislature each November 1st, beginning in 2023. The reports must detail the work of the commission, the opportunities identified to advance the goals under subsection (7) of this section, which, if any, of the opportunities a state agency is implementing, which, if any, opportunities should be pursued with legislative policy or fiscal authority, and which opportunities have been identified as beneficial, but lack federal authority to implement.

(9) Subject to sufficient existing agency authority, state agencies may implement specific elements of any report issued under this section. This section shall not be construed to authorize the commission to implement a universal health care system through a unified financing system until there is further action by the legislature and the governor.

(10) The commission must hold its first meeting within 90 days of the effective date of this section."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

#### MOTION

Senator Randall moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5399.

Senator Randall spoke in favor of the motion.

Senator Muzzall spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Randall that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5399.

The motion by Senator Randall carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5399 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5399, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5399, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 28; Nays, 21; Absent, 0; Excused, 0.

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

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

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5399, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

April 16, 2021

MR. PRESIDENT:

The House receded from its amendment(s) to ENGROSSED SUBSTITUTE SENATE BILL NO. 5408. Under suspension of the rules, the bill was returned to second reading for the purposes of amendment(s). The House adopted the following amendment(s): 5408-S.E AMH HANS H1556.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that the homestead exemption is intended to protect the homeowner's equity in a home against unsecured creditors. The legislature finds that changes to the homestead exemption are necessary to modernize the law and to address the case of *Wilson v. Rigby*, 909 F.3d 306 (2018) and to adopt the reasoning in *In re Good*, 588 B.R. 573 (Bankr. W.D. Wash. 2018).

**Sec. 2.** RCW 6.13.010 and 1999 c 403 s 1 are each amended to read as follows:

(1) The homestead consists of real or personal property that the owner or a dependent of the owner uses as a residence. In the case of a dwelling house or mobile home, the homestead consists of the dwelling house or the mobile home in which the owner resides or intends to reside, with appurtenant buildings, and the land on which the same are situated and by which the same are surrounded, or improved or unimproved land, regardless of area, owned with the intention of placing a house or mobile home thereon and residing thereon. A mobile home may be exempted under this chapter whether or not it is permanently affixed to the underlying land and whether or not the mobile home is placed upon a lot owned by the mobile home owner or a dependent of the owner. Property included in the homestead must be actually intended or used as the principal home for the owner.

(2) As used in this chapter (~~the term "owner"~~):

(a) "Owner" includes but is not limited to a purchaser under a deed of trust, mortgage, or real estate contract.

~~((3) As used in this chapter, the term "net")~~ (b) "Net" value" means market value less all liens and encumbrances senior to the judgment being executed upon and not including the judgment being executed upon.

(c) "Forced sale" includes any sale of homestead property in a bankruptcy proceeding under Title 11 of the United States Code. The reinvestment provisions of RCW 6.13.070 do not apply to the proceeds.

(d) "Dependent" has the meaning given in Title 11 U.S.C. Sec. 522(a)(1).

**Sec. 3.** RCW 6.13.030 and 2007 c 429 s 1 are each amended to read as follows:

~~(A homestead may consist of lands, as described in RCW 6.13.010, regardless of area, but the homestead exemption amount shall not exceed the lesser of (1) the total net value of the lands, manufactured homes, mobile home, improvements, and other personal property, as described in RCW 6.13.010, or (2) the sum of one hundred twenty five thousand dollars in the case of lands, manufactured homes, mobile home, and improvements, or the sum of fifteen thousand dollars in the case of other personal property described in RCW 6.13.010, except where)) (1) The homestead exemption amount is the greater of:~~

~~(a) \$125,000;~~

~~(b) The county median sale price of a single-family home in the preceding calendar year; or~~

~~(c) Where the homestead is subject to execution, attachment, or seizure by or under any legal process whatever to satisfy a judgment in favor of any state for failure to pay that state's income tax on benefits received while a resident of the state of Washington from a pension or other retirement plan, ((in which event there shall be)) no dollar limit ((on the value of the exemption)).~~

~~(2) In determining the county median sale price of a single-family home in the preceding year, a court shall use data from the Washington center for real estate research or, if the Washington center no longer provides the data, a successor entity designated by the office of financial management.~~

**Sec. 4.** RCW 6.13.060 and 2008 c 6 s 634 are each amended to read as follows:

The homestead of a spouse or domestic partner cannot be conveyed or encumbered unless the instrument by which it is conveyed or encumbered is executed and acknowledged by both spouses or both domestic partners, except that either spouse or both or either domestic partner or both jointly may make and execute powers of attorney for the conveyance or encumbrance of the homestead. The conveyance or encumbrance of the homestead does not require that any dependent of the owner who is not a spouse or domestic partner execute and acknowledge the instrument by which it is conveyed or encumbered.

**Sec. 5.** RCW 6.13.070 and 1987 c 442 s 207 are each amended to read as follows:

(1) Except as provided in RCW 6.13.080, the homestead is exempt from attachment and from execution or forced sale for the debts of the owner up to the amount specified in RCW 6.13.030.

(2) In a bankruptcy case, the debtor's exemption shall be determined on the date the bankruptcy petition is filed. If the value of the debtor's interest in homestead property on the petition date is less than or equal to the amount that can be exempted under RCW 6.13.030, then the debtor's entire interest in the property, including the debtor's right to possession and interests of no monetary value, is exempt. Any appreciation in the value of the debtor's exempt interest in the property during the bankruptcy case is also exempt, even if in excess of the amounts in RCW 6.13.030(1).

(3) The proceeds of the voluntary sale of the homestead in good faith for the purpose of acquiring a new homestead, and proceeds from insurance covering destruction of homestead property held for use in restoring or replacing the homestead property, up to the

amount specified in RCW 6.13.030, shall likewise be exempt for one year from receipt, and also such new homestead acquired with such proceeds.

~~((2)) (4)~~ Every homestead created under this chapter is presumed to be valid to the extent of all the property claimed exempt, until the validity thereof is contested in a court of general jurisdiction in the county or district in which the homestead is situated.

**Sec. 6.** RCW 6.13.080 and 2019 c 238 s 215 are each amended to read as follows:

The homestead exemption is not available against an execution or forced sale in satisfaction of judgments obtained:

(1) On debts secured by mechanic's, laborer's, construction, maritime, automobile repair, material supplier's, or vendor's liens arising out of and against the particular property claimed as a homestead;

(2) On debts secured:

(a) ~~((by))~~ By security agreements describing as collateral the property that is claimed as a homestead; or

(b) ~~((by))~~ By mortgages or deeds of trust on the premises that have been executed and acknowledged by both spouses or both domestic partners or by any claimant not married or in a state registered domestic partnership. The execution and acknowledgment of a mortgage or deed of trust by a dependent who is not a spouse or domestic partner is not required;

(3) On one spouse's or one domestic partner's or the community's debts existing at the time of that spouse's or that domestic partner's bankruptcy filing where (a) bankruptcy is filed by both spouses or both domestic partners within a six-month period, other than in a joint case or a case in which their assets are jointly administered, and (b) the other spouse or other domestic partner exempts property from property of the estate under the bankruptcy exemption provisions of 11 U.S.C. Sec. 522(d);

(4) On debts arising from a lawful court order or decree or administrative order establishing a child support obligation or obligation to pay maintenance;

(5) On debts owing to the state of Washington for recovery of medical assistance correctly paid on behalf of an individual consistent with 42 U.S.C. Sec. 1396p;

(6) On debts secured by a condominium, homeowners', or common interest community association's lien; or

(7) On debts owed for taxes collected under chapters 82.08, 82.12, and 82.14 RCW but not remitted to the department of revenue.

**Sec. 7.** RCW 61.24.100 and 1998 c 295 s 12 are each amended to read as follows:

(1) Except to the extent permitted in this section for deeds of trust securing commercial loans, a deficiency judgment shall not be obtained on the obligations secured by a deed of trust against any borrower, grantor, or guarantor after a trustee's sale under that deed of trust.

(2)(a) Nothing in this chapter precludes an action against any person liable on the obligations secured by a deed of trust or any guarantor prior to a notice of trustee's sale being given pursuant to this chapter or after the discontinuance of the trustee's sale.

(b) No action under (a) of this subsection precludes the beneficiary from commencing a judicial foreclosure or trustee's sale under the deed of trust after the completion or dismissal of that action.

(3) This chapter does not preclude any one or more of the following after a trustee's sale under a deed of trust securing a commercial loan executed after June 11, 1998:

(a)(i) To the extent the fair value of the property sold at the trustee's sale to the beneficiary or an affiliate of the beneficiary is

less than the unpaid obligation secured by the deed of trust immediately prior to the trustee's sale, an action for a deficiency judgment against the borrower or grantor, if such person or persons was timely given the notices under RCW 61.24.040, for (A) any decrease in the fair value of the property caused by waste to the property committed by the borrower or grantor, respectively, after the deed of trust is granted, and (B) the wrongful retention of any rents, insurance proceeds, or condemnation awards by the borrower or grantor, respectively, that are otherwise owed to the beneficiary.

(ii) This subsection (3)(a) does not apply to any property that is occupied by the borrower as its principal residence as of the date of the trustee's sale;

(b) Any judicial or nonjudicial foreclosures of any other deeds of trust, mortgages, security agreements, or other security interests or liens covering any real or personal property granted to secure the obligation that was secured by the deed of trust foreclosed; or

(c) Subject to this section, an action for a deficiency judgment against a guarantor if the guarantor is timely given the notices under RCW 61.24.042.

(4) Any action referred to in subsection (3)(a) and (c) of this section shall be commenced within one year after the date of the trustee's sale, or a later date to which the liable party otherwise agrees in writing with the beneficiary after the notice of foreclosure is given, plus any period during which the action is prohibited by a bankruptcy, insolvency, moratorium, or other similar debtor protection statute. If there occurs more than one trustee's sale under a deed of trust securing a commercial loan or if trustee's sales are made pursuant to two or more deeds of trust securing the same commercial loan, the one-year limitation in this section begins on the date of the last of those trustee's sales.

(5) In any action against a guarantor following a trustee's sale under a deed of trust securing a commercial loan, the guarantor may request the court or other appropriate adjudicator to determine, or the court or other appropriate adjudicator may in its discretion determine, the fair value of the property sold at the sale and the deficiency judgment against the guarantor shall be for an amount equal to the sum of the total amount owed to the beneficiary by the guarantor as of the date of the trustee's sale, less the fair value of the property sold at the trustee's sale or the sale price paid at the trustee's sale, whichever is greater, plus interest on the amount of the deficiency from the date of the trustee's sale at the rate provided in the guaranty, the deed of trust, or in any other contracts evidencing the debt secured by the deed of trust, as applicable, and any costs, expenses, and fees that are provided for in any contract evidencing the guarantor's liability for such a judgment. If any other security is sold to satisfy the same debt prior to the entry of a deficiency judgment against the guarantor, the fair value of that security, as calculated in the manner applicable to the property sold at the trustee's sale, shall be added to the fair value of the property sold at the trustee's sale as of the date that additional security is foreclosed. This section is in lieu of any right any guarantor would otherwise have to establish an upset price pursuant to RCW 61.12.060 prior to a trustee's sale.

(6) A guarantor granting a deed of trust to secure its guaranty of a commercial loan shall be subject to a deficiency judgment following a trustee's sale under that deed of trust only to the extent stated in subsection (3)(a)(i) of this section. If the deed of trust encumbers the guarantor's principal residence, the guarantor shall be entitled to receive an amount up to ~~((the homestead exemption set forth in RCW 6.13.030))~~ \$125,000, without regard to the effect of RCW 6.13.080(2), from the bid at the foreclosure or trustee's sale accepted by the sheriff or trustee prior to the

application of the bid to the guarantor's obligation.

(7) A beneficiary's acceptance of a deed in lieu of a trustee's sale under a deed of trust securing a commercial loan exonerates the guarantor from any liability for the debt secured thereby except to the extent the guarantor otherwise agrees as part of the deed in lieu transaction.

(8) This chapter does not preclude a beneficiary from foreclosing a deed of trust in the same manner as a real property mortgage and this section does not apply to such a foreclosure.

(9) Any contract, note, deed of trust, or guaranty may, by its express language, prohibit the recovery of any portion or all of a deficiency after the property encumbered by the deed of trust securing a commercial loan is sold at a trustee's sale.

(10) A trustee's sale under a deed of trust securing a commercial loan does not preclude an action to collect or enforce any obligation of a borrower or guarantor if that obligation, or the substantial equivalent of that obligation, was not secured by the deed of trust.

(11) Unless the guarantor otherwise agrees, a trustee's sale shall not impair any right or agreement of a guarantor to be reimbursed by a borrower or grantor for a deficiency judgment against the guarantor.

(12) Notwithstanding anything in this section to the contrary, the rights and obligations of any borrower, grantor, and guarantor following a trustee's sale under a deed of trust securing a commercial loan or any guaranty of such a loan executed prior to June 11, 1998, shall be determined in accordance with the laws existing prior to June 11, 1998.

**NEW SECTION. Sec. 8.** 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."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

#### MOTION

Senator Stanford moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5408.

Senators Stanford and Padden spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Stanford that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5408.

The motion by Senator Stanford carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5408 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5408, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5408, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 7; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Dozier, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Hunt, Keiser, King, Kuderer, Liias, Lovelett, Mullet, Muzzall, Nguyen, Nobles, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Short,



Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senators Ericksen, Fortunato, Honeyford, McCune, Padden, Schoesler and Sheldon

ENGROSSED SUBSTITUTE SENATE BILL NO. 5408, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

April 8, 2021

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5237 with the following amendment(s): 5237-S2.E AMH ENGR H1378.E

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1. SHORT TITLE.** This act may be known and cited as the fair start for kids act.

**NEW SECTION. Sec. 2. INTENT.** (1) The legislature finds that high quality child care and early learning is critical to a child's success in school and life. The legislature recognizes that COVID-19 has devastated the existing child care industry, making it unduly burdensome for families to find care. The legislature recognizes that without immediate action to support child care providers, and without expanded access to affordable child care, especially infant and school-age care, parents will not be able to return to work while children lose valuable learning opportunities. In order to bolster a full economic recovery, the legislature finds that every child deserves a fair start.

(2) The legislature finds that access to affordable child care increases economic growth and labor force participation. The legislature further finds that an affordable, accessible system of high quality child care is necessary to the health of Washington's economy because employers benefit when parents have safe, stable, and appropriate care for their children. The legislature recognizes that too many working parents are forced to reduce their hours, decline promotional opportunities, or leave the workforce completely due to a lack of affordable and appropriate child care. The legislature finds that a report commissioned by the department of commerce in 2019 found that working parents in Washington forego \$14,000,000,000 each year directly due to child care scarcity. The legislature recognizes that this disproportionately impacts women in the workforce and that in September 2020 alone, 78,000 men left the workforce, compared to 600,000 women.

(3) The legislature recognizes that quality child care can be a stabilizing factor for children experiencing homelessness, and is a proven protective factor against the impacts of trauma they may experience. Access to child care is also a necessary support for families with young children in resolving homelessness and securing employment.

(4) The legislature finds that the scarcity of child care, exacerbated by COVID-19, most significantly impacts families furthest from opportunity. The legislature recognizes that there are additional barriers to accessing this foundational support for immigrant communities and families whose first language is not English, families who have children with disabilities, rural communities, or other child care deserts. The legislature recognizes that high quality, inclusive child care and early learning programs have been shown to reduce the opportunity gap

for low-income children and black, indigenous, and children of color while consistently improving outcomes for all children both inside and outside of the classroom.

(5) The legislature finds that without access to comprehensive, high quality prenatal to five services, children often enter kindergarten without the social-emotional, physical, cognitive, and language skills they need to be successful and fall behind their peers, facing compounding developmental challenges throughout their K-12 education. The legislature finds that cascading impacts of inaccessible child care and early learning programs create systemic barriers for children and their families that result in higher special education needs, greater likelihood of needing to repeat grades, increased child welfare and juvenile justice involvement, reduced high school graduation rates, limited postsecondary education attainment, and greater barriers to employment in adulthood.

(6) The legislature finds the vast majority of child care providers are small businesses and nonprofit organizations. In addition to adhering to federal, state, and local regulations to ensure healthy and safe environments for children, the legislature recognizes that child care providers must ensure their employees are adequately compensated and supported. However, the legislature acknowledges that the reduced staffing ratios for health and safety, additional cost of personal protective equipment and extra cleaning supplies, increased use of substitutes needed during COVID-19-related absences, and increased technology demands during school closures from the pandemic are further straining the viability of the child care business model in Washington state.

(7) The legislature finds that the health and stability of the early learning workforce is pivotal to any expansion of child care in Washington state. The legislature recognizes that the child care workforce, predominantly comprised of women of color, is structurally afflicted by low wages, limited or no health care, and a severe lack of retirement benefits. The legislature further recognizes that the threat of COVID-19 compounds these underlying issues, forcing providers to navigate increased stress, anxiety, and behavioral issues all while risking their lives to care for children. The legislature recognizes that families, friends, and neighbors who provide care are a critical component of the child care system. The legislature finds that child care workers are essential and deserve to be compensated and benefited accordingly.

(8) Therefore, the legislature resolves to respond to the COVID-19 crisis by first stabilizing the child care industry and then expanding access to a comprehensive continuum of high quality early childhood development programs, including infant and school-age child care, preschool, parent and family supports, and prenatal to three services. The legislature recognizes this continuum as critical to meeting different families' needs and offering every child in Washington access to a fair start.

(9) The legislature recognizes that the federal government has provided substantial additional funding through the coronavirus response and relief supplemental appropriations act, P.L. 116-260, division M., and the American rescue plan act of 2021. The purpose of the additional federal funding is to ensure access to affordable child care and stabilize and support child care providers affected by COVID-19. Therefore, it is the intent of the legislature to use the additional federal funding to supplement state funding in order to accelerate these investments.

(10) The legislature recognizes the strengths that multilingual, diverse early learning providers and caregivers contribute to early learning across the state. Therefore, the legislature intends to expand language access services to create an inclusive early

learning system that specifically supports underserved providers.

(11) The legislature intends to expand eligibility for existing child care and preschool programs to increase access. The legislature recognizes that expansion must be accompanied by an investment to make child care more affordable. Therefore, the legislature intends to eliminate copayments for low-income families and limit copayments for any family on subsidy to no more than seven percent of their income.

(12) The legislature further intends to stabilize, support, and grow the diverse early learning workforce by funding living wages and affordable health benefits while providing training, infant and early childhood mental health consultation, shared business services, and a variety of other supports that recognize the critical role that early learning providers serve for all Washington children.

(13) The legislature intends to accelerate Washington's economic recovery from the devastating impacts of COVID-19 by dramatically expanding access to affordable, high quality child care and preschool, in order to get parents back to work and provide every child with a fair start.

#### PART I

##### INVESTING IN CHILD CARE AND EARLY LEARNING

NEW SECTION. Sec. 101. FAIR START FOR KIDS ACCOUNT. (1) The fair start for kids account is created in the state treasury. Moneys in the account may be spent only after appropriation.

(2) Expenditures from the account may be used only for child care and early learning purposes.

NEW SECTION. Sec. 102. FAIR START FOR KIDS SPENDING GOALS AND STRATEGIES. (1) The spending goals and strategies for the fair start for kids account created under section 101 of this act include, but are not limited to:

(a) Increasing child care subsidy rates, with the goal of moving toward the full cost of providing high quality child care;

(b) Expanding health care coverage through state sponsorship of child care workers on the Washington health benefit exchange and providing consumer assistance through navigators, as well as any other expansions of access to affordable health care for staff in child care centers, family home providers, outdoor nature-based care, and early childhood education and assistance program staff;

(c) Increasing child care and early learning providers' compensation;

(d) Implementing the provisions of collective bargaining agreements for family child care providers negotiated pursuant to RCW 41.56.028;

(e) Supporting and expanding access to the early childhood education and assistance program to reach state-funded entitlement required in RCW 43.216.556;

(f) Making child care affordable for families;

(g) Providing resources and supports for family, friend, and neighbor caregivers that better reflect the full cost of care;

(h) Providing child care subsidies for families working to resolve homelessness;

(i) Providing professional development opportunities for child care and early learning providers;

(j) Delivering infant and early childhood mental health consultation services;

(k) Establishing prekindergarten through third grade systems coordinators at educational service districts;

(l) Supporting youth development programs serving children and youth ages birth through 12 including, but not limited to, expanded learning opportunities, mentoring, school-age child care, and wraparound supports or integrated student supports;

(m) Awarding grants and loans through the early learning

facilities grant and loan program established under chapter 43.31 RCW;

(n) Funding special designations in the working connections child care programs, early childhood education and assistance programs, and birth to three early childhood education and assistance programs including designations established in sections 302, 304, 305, and 404 of this act;

(o) Supporting costs for transparent data collection and information technology systems operated by the department and department contractors, in particular, to ensure equitable systemic service provision and outcomes;

(p) Providing access to learning technology;

(q) Providing child care resource and referral services;

(r) Conducting quality rating and improvement system activities through the early achievers program;

(s) Expanding prenatal to three services and supports, including the birth to three early childhood education and assistance program and the in-home parent skill-based programs established in RCW 43.216.130;

(t) Building and delivering a family resource and referral linkage system;

(u) Allowing the exploration of options to provide regulatory relief and make licensing more affordable for child care providers;

(v) Administering comprehensive shared services hubs to allow the ongoing pooling and shared use of services by licensed or certified child care centers and family home providers;

(w) Training department staff to ensure consistent and equitable application of child care licensing and quality standards across the state including antibias and antiracist training;

(x) Providing incentives and supports for child care providers to become licensed;

(y) Studying and evaluating options to incentivize business participation in child care and early learning systems;

(z) Providing start-up grants to eligible organizations as described in RCW 43.31.575 who provide or commit to providing the early childhood education and assistance program or working connections child care. Start-up grants must be used for one-time start-up costs associated with the start-up of a new child care or early childhood education and assistance program site; and

(aa) Recognizing the benefits of the diverse workforce and facilitating communication in the three most commonly spoken languages by developing a language access plan that centers on equity and access for immigrants, multilingual providers, caregivers, and families.

(2) This section does not interfere with, impede, or in any way diminish the right of family child care providers to bargain collectively with the state through the exclusive bargaining representatives as provided for under RCW 41.56.028.

**Sec. 103.** RCW 43.88.055 and 2020 c 218 s 2 are each amended to read as follows:

##### LEGISLATIVE BALANCED BUDGET REQUIREMENT.

(1) The legislature must adopt a four-year balanced budget as follows:

(a) Beginning in the 2013-2015 fiscal biennium, the legislature shall enact a balanced omnibus operating appropriations bill that leaves, in total, a positive ending fund balance in the general fund and related funds.

(b) Beginning in the 2013-2015 fiscal biennium, the projected maintenance level of the omnibus appropriations bill enacted by the legislature shall not exceed the available fiscal resources for the next ensuing fiscal biennium.

(2) For purposes of this section:

(a) "Available fiscal resources" means the beginning general fund and related fund balances and any fiscal resources estimated

for the general fund and related funds, adjusted for enacted legislation, and with forecasted revenues adjusted to the greater of (i) the official general fund and related funds revenue forecast for the ensuing biennium, or (ii) the official general fund and related funds forecast for the second fiscal year of the current fiscal biennium, increased by 4.5 percent for each fiscal year of the ensuing biennium;

(b) "Projected maintenance level" means estimated appropriations necessary to maintain the continuing costs of program and service levels either funded in that appropriations bill or mandated by other state or federal law, and the amount of any general fund moneys projected to be transferred to the budget stabilization account pursuant to Article VII, section 12 of the state Constitution;

(c) "Related funds," as used in this section, means the Washington opportunity pathways account, the workforce education investment account, the fair start for kids account, and the education legacy trust account.

(3) Subsection (1)(a) and (b) of this section does not apply to an appropriations bill that makes net reductions in general fund and related funds appropriations and is enacted between July 1st and February 15th of any fiscal year.

(4) Subsection (1)(b) of this section does not apply in a fiscal biennium in which money is appropriated from the budget stabilization account pursuant to Article VII, section 12(d)(ii) of the state Constitution.

**Sec. 104.** RCW 43.216.075 and 2020 c 262 s 4 are each amended to read as follows:

**INVESTMENT ACCOUNTABILITY AND OVERSIGHT.**

(1) The early learning advisory council is established to advise the department on statewide early learning issues that contribute to the ongoing efforts of building a comprehensive system of quality early learning programs and services for Washington's young children and families.

(2) The council shall work in conjunction with the department to ~~((assist))~~:

(a) ~~Assist~~ in policy development and implementation that ~~((assist the department in promoting))~~ promotes alignment of private and public sector actions, objectives, and resources, ~~((ensuring))~~ with the overall goal of promoting school readiness for all children;

(b) Provide recommendations annually to the governor and the legislature, beginning August 31, 2022, regarding the phased implementation of strategies and priorities identified in section 102 of this act;

(c) Maintain a focus on racial equity and inclusion in order to dismantle systemic racism at its core and contribute to statewide efforts to break the cycle of intergenerational poverty;

(d) Maintain a focus on inclusionary practices for children with disabilities;

(e) Partner with nonprofit organizations to collect and analyze data and measure progress; and

(f) Assist the department in monitoring and ensuring that the investments funded by the fair start for kids account created in section 101 of this act are designed to support the following objectives:

(i) Advance racial equity and strengthen families by recognizing and responding to the growing diversity of our state's population;

(ii) Promote access to affordable, high quality child care and early learning opportunities for all families, paying particular attention to the needs of rural and other underserved communities;

(iii) Promote kindergarten readiness by enhancing child

development, including development of social-emotional skills, and eliminating exclusionary admissions practices and disproportionate removals in child care and early learning programs; and

(iv) Contribute to efforts to strengthen and grow our state's economy by supporting working parents as well as stabilizing and supporting the child care and early learning workforce.

(3) In collaboration with the council, the department shall consult with its advisory groups and other interested stakeholders and shall submit a biennial report to the governor and legislature describing how the investments funded by the fair start for kids act have impacted the policy objectives stated in subsection (2)(f) of this section. The first report under this section is due September 15, 2023. The council shall include diverse, statewide representation from public, nonprofit, and for-profit entities. Its membership shall include critical partners in service delivery and reflect regional, racial, and cultural diversity to adequately represent the ~~((needs))~~ interests of all children and families in the state.

(4) Councilmembers shall serve two-year terms. However, to stagger the terms of the council, the initial appointments for twelve of the members shall be for one year. Once the initial one-year to two-year terms expire, all subsequent terms shall be for two years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously.

(5) The council shall consist of members essential to coordinating services statewide prenatal through age ~~((five))~~ 12, as follows:

(a) In addition to being staffed and supported by the department, the governor shall appoint one representative from each of the following: The department of commerce and the department of health~~((the student achievement council, and the state board for community and technical colleges))~~;

(b) One representative from the student achievement council, to be appointed by the student achievement council;

(c) The military spouse liaison created within the department of veterans affairs under RCW 43.60A.245;

(d) One representative from the state board for community and technical colleges, to be appointed by the state board for community and technical colleges;

(e) One representative from the office of the superintendent of public instruction, to be appointed by the superintendent of public instruction;

~~((e))~~ The governor shall appoint leaders in early childhood education to represent critical service delivery and support sectors, with at least one individual representing each of the following:

(i) ~~The head start state collaboration office director or the director's designee;~~

(ii) ~~A representative of a head start, early head start, or migrant/seasonal head start program;~~

(iii) ~~A representative of a local education agency;~~

(iv) ~~A representative of the state agency responsible for programs under section 619 or part C of the federal individuals with disabilities education act;~~

(v) ~~A representative of the early childhood education and assistance program;~~

(vi) ~~A representative of licensed family day care providers;~~

(vii) ~~A representative of child day care centers; and~~

(viii) ~~A representative from the home visiting advisory committee established in RCW 43.216.130;~~

(d)) (f) Two members of the house of representatives, one

from each caucus, to be appointed by the speaker of the house of representatives and two members of the senate, one from each caucus, to be appointed by the majority leader in the senate and the minority leader in the senate;

~~((e))~~ (g) Two parents, one of whom serves on the department's parent advisory group, to be appointed by the ~~((governor))~~ parent advisory group;

~~((f))~~ (h) One representative of the private-public partnership created in RCW 43.216.065, to be appointed by the partnership board;

~~((g))~~ (i) One representative from the developmental disabilities community representing children and families involved in part C of the federal individuals with disabilities education act and one representative from the developmental disabilities community representing children and families involved in part B of the federal individuals with disabilities education act;

~~((h))~~ (j) Two representatives from early learning regional coalitions;

~~((i) Representatives)~~ (k) Up to five representatives of underserved communities who have a special expertise or interest in high quality early learning, one to be appointed by each of the following commissions:

(i) The Washington state commission on Asian Pacific American affairs established under chapter 43.117 RCW;

(ii) The Washington state commission on African American affairs established under chapter 43.113 RCW; ~~((and))~~

(iii) The Washington state commission on Hispanic affairs established under chapter 43.115 RCW;

(iv) The Washington state women's commission established under chapter 43.119 RCW; and

(v) The Washington state office of equity established under chapter 43.06D RCW;

~~((j))~~ (l) Two representatives designated by sovereign tribal governments, one of whom must be a representative of a tribal early childhood education assistance program or head start program;

~~((k))~~ (m) One representative from the Washington federation of independent schools;

~~((l))~~ (n) One representative from the Washington library association; ~~((and~~

~~((m))~~ (o) One representative from a statewide advocacy coalition of organizations that focuses on early learning;

(p) One representative from an association representing statewide business interests, to be appointed by the association and one representative from a regional business coalition;

(q) One representative of an advocacy organization for immigrants and refugees;

(r) One representative of an organization advocating for expanded learning opportunities and school-age child care programs;

(s) One representative from the largest union representing child care providers;

(t) A representative of a head start, early head start, or migrant and seasonal head start program, to be appointed by the head start collaboration office;

(u) A representative of educational service districts, to be appointed by a statewide association of educational service district board members;

(v) A provider responsible for programs under section 619 of the federal individuals with disabilities education act, to be appointed by the superintendent of public instruction;

(w) A representative of the state agency responsible for part C of the federal individuals with disabilities education act, to be appointed by the department;

(x) A representative of the early childhood education and assistance program, to be appointed by an association representing early childhood education and assistance programs;

(y) A representative of licensed family home providers, to be appointed by the largest union representing child care providers;

(z) A representative of child care centers, to be appointed by an association representing child care centers;

(aa) A representative from the home visiting advisory committee established in RCW 43.216.130, to be appointed by the committee;

(bb) An infant or early childhood mental health expert, to be appointed by the Barnard center for infant and early childhood mental health at the University of Washington;

(cc) A family, friend, and neighbor caregiver, to be appointed by the largest union representing child care providers;

(dd) A representative from prenatal to three services;

(ee) A pediatrician, to be appointed by the state chapter of the American academy of pediatrics; and

(ff) A representative of the statewide child care resource and referral organization, to be appointed by the statewide child care resource and referral organization.

(6) The council shall be cochaired by two members, to be elected by the council for two-year terms and not more than one cochair may represent a state agency.

(7) At the direction of the cochairs, the council may convene advisory groups, such as a parent caucus, to evaluate specific issues and report related findings and recommendations to the full council.

(8) The council shall appoint two members and stakeholders with expertise in early learning to sit on the technical working group created in section 2, chapter 234, Laws of 2010.

~~((8))~~ (9) Each member of the ~~((board))~~ council shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses incurred in carrying out the duties of the ~~((board))~~ council in accordance with RCW 43.03.050 and 43.03.060.

~~((9))~~ (10)(a) The council shall convene an early achievers review subcommittee to provide feedback and guidance on strategies to improve the quality of instruction and environment for early learning and provide input and recommendations on the implementation and refinement of the early achievers program. The subcommittee shall at a minimum provide feedback and guidance to the department and the council on the following:

(i) Adequacy of data collection procedures;

(ii) Coaching and technical assistance standards;

(iii) Progress in reducing barriers to participation for low-income providers and providers from diverse cultural backgrounds, including a review of the early achievers program's rating tools, quality standard areas, and components, and how they are applied;

(iv) Strategies in response to data on the effectiveness of early achievers program standards in relation to providers and children from diverse cultural backgrounds;

(v) Status of the life circumstance exemption protocols; ~~((and))~~

(vi) Analysis of early achievers program data trends; and

(vii) Other relevant early learning data including progress in serving students with disabilities ages birth to five and least restrictive environment data.

(b) The subcommittee must include consideration of cultural linguistic responsiveness when analyzing the areas for review required by (a) of this subsection.

(c) The subcommittee shall include representatives from child care centers, family child care, the early childhood education and assistance program, contractors for early achievers program technical assistance and coaching, tribal governments, the

organization responsible for conducting early achievers program ratings, and parents of children participating in early learning programs, including working connections child care and early childhood education and assistance programs. The subcommittee shall include representatives from diverse cultural and linguistic backgrounds.

~~((40))~~ (11)(a) The council shall convene a temporary licensing subcommittee to provide feedback and recommendations on improvement to the statewide licensing process.

(b) Members of the subcommittee must include two representatives of the department, two child care providers, and two parents of children in child care. One child care provider and one parent representative must reside east of the crest of the Cascade mountains and one child care provider and one parent representative must reside west of the crest of the Cascade mountains.

(c) The subcommittee shall:

(i) Examine strategies to increase the number of licensed child care providers in the state, including meeting with prospective licensees to explain the licensure requirements and inspect and provide feedback on the physical space that is contemplated for licensure;

(ii) Develop model policies for licensed child care providers to implement licensing standards including, but not limited to, completing the child care and early learning licensing guidebook, to be made available to support providers with compliance; and

(iii) Develop recommendations regarding incentives and financial supports to help prospective providers navigate the licensing process.

(d) The subcommittee shall provide feedback and recommendations to the department of children, youth, and families pursuant to this subsection (11) by December 1, 2022.

(12) The department shall provide staff support to the council.

**Sec. 105.** RCW 83.100.230 and 2019 c 415 s 990 are each amended to read as follows:

The education legacy trust account is created in the state treasury. Money in the account may be spent only after appropriation. Expenditures from the account may be used only for support of the common schools, and for expanding access to higher education through funding for new enrollments and financial aid, early learning and child care programs, and other educational improvement efforts. ~~((During the 2015-2017, 2017-2019, and 2019-2021 fiscal biennia appropriations from the account may be made for support of early learning programs. It is the intent of the legislature that this policy will be continued in subsequent fiscal biennia.))~~

**NEW SECTION. Sec. 106. INFLATIONARY ADJUSTMENTS.** Beginning July 1, 2023, and subject to the availability of amounts appropriated for this specific purpose, rates paid under sections 302, 305, and 404 of this act and RCW 43.216.578 must be adjusted every two years according to an inflationary increase. The inflationary increase must be calculated by applying the rate of the increase in the inflationary adjustment index to the rates established in sections 302, 305, and 404 of this act and RCW 43.216.578. Any funded inflationary increase must be included in the rate used to determine inflationary increases in subsequent years. For the purposes of this section, "inflationary adjustment index" means the implicit price deflator averaged for each fiscal year, using the official current base rate, compiled by the bureau of economic analysis, United States department of commerce.

**PART II**

**EXPANDING ACCESS TO CHILD CARE AND EARLY**

**LEARNING PROGRAMS**

**NEW SECTION. Sec. 201. WORKING CONNECTIONS CHILD CARE PROGRAM ELIGIBILITY AND COPAYMENT.** (1) It is the intent of the legislature to increase working families' access to affordable, high quality child care and to support the expansion of the workforce to support businesses and the statewide economy.

(2) Beginning October 1, 2021, a family is eligible for working connections child care when the household's annual income is at or below 60 percent of the state median income adjusted for family size and:

(a) The child receiving care is: (i) Less than 13 years of age; or (ii) less than 19 years of age and has a verified special need according to department rule or is under court supervision; and

(b) The household meets all other program eligibility requirements.

(3) Beginning July 1, 2025, a family is eligible for working connections child care when the household's annual income is above 60 percent and at or below 75 percent of the state median income adjusted for family size and:

(a) The child receiving care is: (i) Less than 13 years of age; or (ii) less than 19 years of age and has a verified special need according to department rule or is under court supervision; and

(b) The household meets all other program eligibility requirements.

(4) Beginning July 1, 2027, and subject to the availability of amounts appropriated for this specific purpose, a family is eligible for working connections child care when the household's annual income is above 75 percent of the state median income and is at or below 100 percent of the state median income adjusted for family size and:

(a) The child receiving care is: (i) Less than 13 years of age; or (ii) less than 19 years of age and has a verified special need according to department rule or is under court supervision; and

(b) The household meets all other program eligibility requirements.

(5)(a) The department must calculate a monthly copayment according to the following phased-in schedule:

Beginning date:	If the household's income is:	Then the household's copayment is:
Beginning July 1, 2023	At or below 36 percent of the state median income	Waived to the extent allowable under federal law
Beginning July 1, 2023	Above 36 percent and at or below 50 percent of the state median income	\$65
Beginning July 1, 2023	Above 50 percent and at or below 60 percent of the state median income	\$165
Beginning July 1, 2025	Above 60 percent and at or below 75 percent of the state median income	\$215

(b) The department shall adopt a copayment model based on available revenue for households with annual incomes above 75

percent of the state median income and at or below 100 percent of the state median income. The model must calculate a copayment for each household that is no greater than seven percent of the household's countable income within this income range.

(c) The department may adjust the copayment schedule to comply with federal law.

(6) The department must adopt rules, including phase-out eligibility, to implement this section.

**Sec. 202.** RCW 43.216.136 and 2020 c 279 s 2 are each amended to read as follows:

**WORKING CONNECTIONS CHILD CARE FOR STUDENT PARENTS.**

(1) The department shall establish and implement policies in the working connections child care program to promote stability and quality of care for children from low-income households. These policies shall focus on supporting school readiness for young learners. Policies for the expenditure of funds constituting the working connections child care program must be consistent with the outcome measures established by the department and the standards established in this section intended to promote stability, quality, and continuity of early care and education programming.

(2) As recommended by P.L. 113-186, authorizations for the working connections child care subsidy are effective for twelve months beginning July 1, 2016(~~(, unless an earlier date is provided in the omnibus appropriations act)~~).

(a) A household's 12-month authorization begins on the date that child care is expected to begin.

(b) If a newly eligible household does not begin care within 12 months of being determined eligible by the department, the household must reapply in order to qualify for subsidy.

(3)(a) The department shall establish and implement policies in the working connections child care program to allow eligibility for families with children who:

(i) In the last six months have:

(A) Received child protective services as defined and used by chapters 26.44 and 74.13 RCW;

(B) Received child welfare services as defined and used by chapter 74.13 RCW; or

(C) Received services through a family assessment response as defined and used by chapter 26.44 RCW;

(ii) Have been referred for child care as part of the family's case management as defined by RCW 74.13.020; and

(iii) Are residing with a biological parent or guardian.

(b) ~~((Children))~~ Families who are eligible for working connections child care pursuant to this subsection do not have to keep receiving services identified in this subsection to maintain twelve-month authorization.

(4)(a) Beginning ~~((August 1, 2020))~~ August 1, 2021, and subject to the availability of amounts appropriated for this specific purpose, the department may not require an applicant or consumer to meet work requirements as a condition of receiving working connections child care benefits when the applicant or consumer is(~~:~~

(i) A single parent;

(ii) A full-time student of a community, technical, or tribal college(~~:~~) and ~~((iii) Pursuing))~~ is enrolled in: (i) A vocational education program that leads to a degree or certificate in a specific occupation(~~(, not to result in a bachelor's or advanced degree)~~);

(ii) An associate degree program; or

(iii) A registered apprenticeship program.

(b) An applicant or consumer is a full-time student for the purposes of this subsection if he or she meets the college's definition of a full-time student. ~~((The student must maintain passing grades and be in good standing pursuant to college~~

~~attendance requirements.))~~

(c) Nothing in this subsection is intended to change how applicants or consumers are prioritized when applicants or consumers are placed on a waitlist for working connections child care benefits.

(d) Subject to the availability of amounts appropriated for this specific purpose, the department may extend the provisions of this subsection (4) to full-time students who are enrolled in a bachelor's degree program or applied baccalaureate degree program.

(5)(a) The department must extend the homeless grace period, as adopted in department rule as of January 1, 2020, from a four-month grace period to a twelve-month grace period.

(b) For the purposes of this section, "homeless" means being without a fixed, regular, and adequate nighttime residence as described in the federal McKinney-Vento homeless assistance act (42 U.S.C. Sec. 11434a) as it existed on January 1, 2020.

(6) For purposes of this section, "authorization" means a transaction created by the department that allows a child care provider to claim payment for care. The department may adjust an authorization based on a household's eligibility status.

**NEW SECTION. Sec. 203. EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM INTENT.**

(1) The legislature finds that eligibility guidelines for the national school lunch program require free meals for children with household incomes at or below 130 percent of the federal poverty level and that this income level is approximately equivalent to 36 percent of the state median income for a household of three. The legislature further finds that eligibility guidelines require reduced-price meals for children with household incomes at or below 185 percent of the federal poverty level and that this income level is approximately equivalent to 50 percent of the state median income for a household of three.

(2) Therefore, the legislature intends to raise the maximum family income for children entitled to enroll in the early childhood education and assistance program to 36 percent of the state median income beginning July 1, 2026. Beginning in the 2030-31 school year, the legislature intends to raise the maximum family income for children entitled to enroll in this program to 50 percent of the state median income. It is the intent of the legislature to standardize income eligibility levels for assistance programs in order to help families and social workers better understand the benefits for which families qualify and to simplify and align state systems wherever feasible.

(3) The legislature further intends to support educational service districts to help school districts partner with early childhood education and assistance program contractors and providers to expand access.

**Sec. 204.** RCW 43.216.505 and 2019 c 408 s 2 are each amended to read as follows:

**EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM ENTITLEMENT ELIGIBILITY.**

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.216.500 through 43.216.559, 43.216.900, and 43.216.901.

(1) "Advisory committee" means the advisory committee under RCW 43.216.520.

(2) "Approved programs" means those state-supported education and special assistance programs which are recognized by the department as meeting the minimum program rules adopted by the department to qualify under RCW 43.216.500 through 43.216.550, 43.216.900, and 43.216.901 and are designated as eligible for funding by the department under RCW 43.216.530 and 43.216.540.

(3) "Comprehensive" means an assistance program that focuses

on the needs of the child and includes education, health, and family support services.

(4) "Eligible child" means a three to five-year old child who is not age-eligible for kindergarten, is not a participant in a federal or state program providing comprehensive services, and who:

(a) Has a family ~~((income at or below one hundred ten percent of the federal poverty level, as published annually by the federal department of health and human services))~~ with financial need;

(b) Is experiencing homelessness;

(c) Has participated in early head start or a successor federal program providing comprehensive services for children from birth through two years of age, the early support for infants and toddlers program or received class C developmental services, the birth to three early childhood education and assistance program, or the early childhood intervention and prevention services program;

(d) Is eligible for special education due to disability under RCW 28A.155.020; ~~((or~~

~~((e)))~~ (e) Is Indian as defined in rule by the department after consultation and agreement with Washington state's federally recognized tribes pursuant to section 207 of this act and is at or below 100 percent of the state median income adjusted for family size; or

(f) Meets criteria under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the early childhood program. Preference for enrollment in this group shall be given to children from families with the lowest income, children in foster care, or to eligible children from families with multiple needs.

(5) "Family support services" means providing opportunities for parents to:

(a) Actively participate in their child's early childhood program;

(b) Increase their knowledge of child development and parenting skills;

(c) Further their education and training;

(d) Increase their ability to use needed services in the community;

(e) Increase their self-reliance; and

(f) Connect with culturally competent, disability positive therapists and supports where appropriate.

(6) "Experiencing homelessness" means a child without a fixed, regular, and adequate nighttime residence as described in the federal McKinney-Vento homeless assistance act (42 U.S.C., Chapter 119, Subchapter VI, Part B) as it existed on January 1, 2021.

(7) "Family with financial need" means families with incomes at or below 36 percent of the state median income adjusted for family size until the 2030-31 school year. Beginning in the 2030-31 school year, "family with financial need" means families with incomes at or below 50 percent of the state median income adjusted for family size.

**Sec. 205.** RCW 43.216.512 and 2019 c 409 s 2 are each amended to read as follows:

**EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM EXPANDED ENROLLMENT.**

(1) The department shall adopt rules that allow the enrollment of children in the early childhood education and assistance program, as space is available, if the number of such children equals not more than ~~((twenty five))~~ 25 percent of total statewide enrollment, when the child is not eligible under RCW 43.216.505 and whose family income level is(:

~~((a) Above one hundred ten percent but less than or equal to one hundred thirty percent of the federal poverty level; or~~

~~((b) Above one hundred thirty percent but less than or equal to two hundred percent of the federal poverty level if))~~ above 36 percent of the state median income but at or below 50 percent of the state median income adjusted for family size and the child meets at least one of the risk factor criterion described in subsection (2) of this section.

(2) Children enrolled in the early childhood education and assistance program pursuant to ~~((subsection (1)(b) of))~~ this section must be prioritized for available funded slots according to a prioritization system adopted in rule by the department that considers risk factors that have a disproportionate effect on kindergarten readiness and school performance, including:

~~((a))~~ (a) Family income as a percent of the ~~((federal poverty level))~~ state median income;

~~((b))~~ ~~((Homelessness;~~

~~((c)))~~ Child welfare system involvement;

~~((d))~~ ~~((Developmental delay or disability that does not meet the eligibility criteria for special education described in RCW 28A.155.020))~~ (c) Eligible for services under part C of the federal individuals with disabilities education act but not eligible for services under part B of the federal individuals with disabilities education act;

~~((e)))~~ (d) Domestic violence;

~~((f)))~~ (e) English as a second language;

~~((g)))~~ (f) Expulsion from an early learning setting;

~~((h)))~~ (g) A parent who is incarcerated;

~~((i)))~~ (h) A parent with a ~~((substance use disorder or mental))~~ behavioral health treatment need; and

~~((j)))~~ (i) Other risk factors determined by the department to be linked by research to school performance.

~~((3))~~ ~~((The department shall adopt rules that allow a child to enroll in the early childhood education and assistance program, as space is available, when the child is not eligible under RCW 43.216.505 and the child turns three years old at any time during the school year when the child:~~

~~((a))~~ ~~((Has a family income at or below two hundred percent of the federal poverty level or meets at least one risk factor criterion adopted by the department in rule; and~~

~~((b))~~ ~~((Has received services from or participated in:~~

~~((i))~~ ~~((The early support for infants and toddlers program;~~

~~((ii))~~ ~~((The early head start or a successor federal program providing comprehensive services for children from birth through two years of age; or~~

~~((iii))~~ ~~((The birth to three early childhood education and assistance program, if such a program is established.~~

~~((4)))~~ Children enrolled in the early childhood education and assistance program under this section are not considered eligible children as defined in RCW 43.216.505 and are not considered to be part of the state-funded entitlement required in RCW 43.216.556.

(4) This section expires August 1, 2030.

**NEW SECTION. Sec. 206. EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM EARLY ENTRY.** (1) The department shall adopt rules that allow a child to enroll in the early childhood education and assistance program, as space is available and subject to the availability of amounts appropriated for this specific purpose, when the child is not eligible under RCW 43.216.505 and the child turns three years old at any time during the school year when the child:

(a) Has a family income at or below 50 percent of the state median income or meets at least one risk factor criterion adopted by the department in rule; and

(b) Has received services from or participated in:

(i) The early head start or a successor federal program

providing comprehensive services for children from birth through two years of age;

(ii) The early support for infants and toddlers program or received class C developmental services;

(iii) The birth to three early childhood education and assistance program; or

(iv) The early childhood intervention and prevention services program.

(2) Children enrolled in the early childhood education and assistance program under this section are not eligible children as defined in RCW 43.216.505 and are not part of the state-funded entitlement required in RCW 43.216.556.

**NEW SECTION. Sec. 207. INDIAN CHILD DEFINITION.** (1) The department must consult, and obtain the advice and consent of, the governing bodies of the state's federally recognized tribes in developing an agreed-upon definition of the term "Indian" for the purposes of RCW 43.216.505 and, by July 1, 2024, must adopt the definition in rule.

(2) This section expires December 1, 2030.

**Sec. 208.** RCW 43.216.556 and 2019 c 408 s 3 are each amended to read as follows:

(1) Funding for the program of early learning established under this chapter must be appropriated to the department. The department shall distribute funding to approved early childhood education and assistance program contractors on the basis of eligible children enrolled.

(2) The program shall be implemented in phases, so that full implementation is achieved in the (~~2022-23~~) 2026-27 school year.

(3) Funding shall continue to be phased in each year until full statewide implementation of the early learning program is achieved in the (~~2022-23~~) 2026-27 school year, at which time any eligible child is entitled to be enrolled in the program. Entitlement under this section is voluntary enrollment.

(4) School districts and approved community-based early learning providers may contract with the department to provide services under the program. The department shall collaborate with school districts, community-based providers, and educational service districts to promote an adequate supply of approved providers.

### PART III

#### SUPPORTING CHILD CARE AND EARLY LEARNING PROVIDERS

**Sec. 301.** RCW 43.216.749 and 2019 c 368 s 7 are each amended to read as follows:

##### CHILD CARE SUBSIDY RATES.

(1) (~~By January 1, 2025, the department of children, youth, and families must~~) It is the intent of the legislature to systematically increase child care subsidy rates over time until rates are equal to the full cost of providing high quality child care.

(2) Beginning July 1, 2021, child care subsidy base rates must achieve the 85th percentile of market for licensed or certified child care providers. The state and the exclusive representative for family child care providers must enter bargaining over the implementation of the subsidy rate increase under this subsection.

(3)(a) The department shall build upon the work of the child care collaborative task force to develop and implement a child care cost estimate model and use the completed child care cost model (~~developed under RCW 43.330.527 to determine child care subsidy rates.~~

(2) ~~This section expires January 30, 2025~~) to recommend subsidy rates at levels that are sufficient to compensate licensed or certified child care providers for the full costs of providing high quality child care. The department shall consider:

(i) Adjusting rates to reflect cost of living such as area median

income, cost of living by zip code, and grouping by categories such as rural, suburban, or urban; and

(ii) Incorporating the rate model for nonstandard child care hours developed under section 306 of this act.

(b) The department shall build upon the work of the child care collaborative task force to evaluate options to support access to affordable health care insurance coverage for licensed or certified child care providers.

(4) This section does not interfere with, impede, or in any way diminish the right of family child care providers to bargain collectively with the state through the exclusive bargaining representatives as provided for under RCW 41.56.028.

**NEW SECTION. Sec. 302. EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM RATES.** (1) For the 2021-22 school year, rates for the early childhood education and assistance program must be set at a level at least 10 percent higher than the rates established in section 225, chapter 415, Laws of 2019.

(2) It is the intent of the legislature that rate increases shall be informed by the department's 2020 early childhood education and assistance program rate study.

(3) This section expires June 30, 2027.

##### NEW SECTION. Sec. 303. COMPLEX NEEDS FUNDS.

(1) The department shall administer two complex needs funds to promote inclusive, least restrictive environments and to support contractors and providers serving children who have developmental delays, disabilities, behavioral needs, or other unique needs. The department shall work collaboratively with the office of the superintendent of public instruction and providers so that the funds best serve the children. One fund must support early childhood education and assistance program contractors and providers and birth to three early childhood education and assistance program contractors and providers, and one fund must support licensed or certified child care providers and license-exempt child care programs.

(2) Support may include staffing, programming, therapeutic services, and equipment or technology support. Additional support may include activities to assist families with children expelled or at risk of expulsion from child care, and to help families transition in and out of child care.

**NEW SECTION. Sec. 304. TRAUMA-INFORMED CARE SUPPORTS.** (1) Beginning July 1, 2022, the department shall provide supports to aid eligible providers in providing trauma-informed care. Trauma-informed care supports may be used by eligible providers for the following purposes:

(a) Additional compensation for individual staff who have an infant and early childhood mental health or other child development specialty credential;

(b) Trauma-informed professional development and training;

(c) The purchase of screening tools and assessment materials;

(d) Supportive services for children with complex needs that are offered as fee-for-service within local communities; or

(e) Other related expenses.

(2) The department must adopt rules to implement this section.

(3) For the purposes of this section, "eligible provider" means: (a) An employee or owner of a licensed or certified child care center or outdoor nature-based care accepting state subsidy; (b) an employee or owner of a licensed family home provider accepting state subsidy; (c) a contractor or provider of the early childhood education and assistance program or birth to three early childhood education and assistance program; (d) a license-exempt child care program; or (e) an early achievers coach.

**NEW SECTION. Sec. 305. DUAL LANGUAGE RATE ENHANCEMENT.** (1) Beginning July 1, 2022, the department shall establish a dual language designation and provide subsidy



rate enhancements or site-specific grants for licensed or certified child care providers who are accepting state subsidy; early childhood education and assistance program contractors; or birth to three early childhood education and assistance program contractors. It is the intent of the legislature to allow uses of the rate enhancements or site-specific grants to include increased wages for individual staff who provide bilingual instruction, professional development training, the purchase of dual language and culturally appropriate curricula and accompanying training programs, instructional materials, or other related expenses.

(2) The department must consult with a culturally and linguistically diverse stakeholder advisory group to develop criteria for the dual language designation.

(3) The department must adopt rules to implement this section.

**NEW SECTION. Sec. 306. NONSTANDARD HOURS RATE MODEL.** (1) In order to expand the supply of critically needed after-hours care to meet the needs of parents and caregivers and a round-the-clock economy, the department of children, youth, and families, in consultation with diverse stakeholders, must develop a rate model for nonstandard child care hours and submit the model to the governor and the appropriate committees of the legislature by January 1, 2022.

(2) This section expires June 30, 2022.

**NEW SECTION. Sec. 307. EARLY CHILDHOOD EQUITY GRANTS.** (1) Subject to the availability of amounts appropriated for this specific purpose, the department shall distribute early childhood equity grants to eligible applicants. Eligible applicants include play and learn groups, licensed or certified child care centers and family home providers, license-exempt child care programs, and early childhood education and assistance program contractors. The equity grants are intended to serve as a step toward expanding access to early learning statewide and transforming Washington's early learning system to make it more inclusive and equitable. The department shall administer the early childhood equity grants to support inclusive and culturally and linguistically specific early learning and early childhood and parent support programs across the state.

(2) The department must conduct an equitable process to prioritize grant applications for early childhood equity grant assistance. An eligible applicant may receive an early childhood equity grant once every two years. When conducting the equitable grant process, the department must:

(a) Solicit project applications from a racially and geographically diverse pool of eligible applicants statewide;

(b) Provide application materials in the five most commonly spoken languages in the state and broadly communicate using a variety of strategies to reach diverse communities;

(c) Require applicants to demonstrate their proposed uses of early childhood equity grant funds to incorporate either inclusive practices or culturally and linguistically supportive and relevant practices, or both, into early learning program design, delivery, education, training, and evaluation; and

(d) Provide technical assistance to any applicant who needs it.

**NEW SECTION. Sec. 308.** A new section is added to chapter 43.330 RCW to read as follows:

**EMPLOYER-SUPPORTED CHILD CARE.**

(1) Subject to the availability of amounts appropriated for this specific purpose, the department, in collaboration with the department of children, youth, and families, shall provide or contract to provide remote or in-person technical assistance to employers interested in supporting their employees' access to high quality child care.

(2) Technical assistance may include guidance related to:

(a) Operating a licensed child care center at or near the

workplace for the benefit of employees;

(b) Financing and construction of a licensed child care center at or near the workplace for the benefit of employees;

(c) Providing financial assistance to employees for licensed or certified child care providers and license-exempt child care program expenses;

(d) Encouraging access and support for low-wage employees;

(e) Sponsoring dependent care flexible spending accounts for employees; and

(f) Developing a "bring your infant to work" program and other family-friendly work policies for employees.

**NEW SECTION. Sec. 309. INFANT AND EARLY CHILDHOOD MENTAL HEALTH CONSULTATION.** (1) The department shall administer or contract for infant and early childhood mental health consultation services to child care providers and early learning providers participating in the early achievers program.

(2) Infant and early childhood mental health consultation services must be delivered in coordination with the consultants provided under RCW 43.216.090.

(3) The department shall provide, or contract with an entity to provide, reflective supervision and professional development for infant and early childhood mental health consultants to meet national competency standards.

(4) As capacity allows, the department may provide access to infant and early childhood mental health consultation services to caregivers and licensed or certified, military, and tribal early learning providers, license-exempt family, friend, and neighbor care providers, and families with children expelled or at risk of expulsion from child care.

**Sec. 310.** RCW 43.216.090 and 2019 c 360 s 7 are each amended to read as follows:

**INFANT AND EARLY CHILDHOOD MENTAL HEALTH CONSULTATION.**

~~((The))~~ Beginning July 1, 2021, the department of children, youth, and families must have or contract for one infant and early childhood mental health consultation coordinator and must enter into a contractual agreement with an organization providing coaching services to early achievers program participants to hire ~~((one))~~ at least 12 qualified infant and early childhood mental health consultants ~~((for each of the six department designated regions)).~~ The department shall determine, in collaboration with the statewide child care resource and referral network, where the additional consultants should be sited based on factors such as the total provider numbers overlaid with indicators of highest need. The infant and early childhood mental health consultants must support early achievers program coaches and child care providers by providing resources, information, and guidance regarding challenging behavior and expulsions and may travel to assist providers in serving families and children with severe behavioral needs. ~~((In coordination with the contractor, the department of children, youth, and families must report on the services provided and the outcomes of the consultant activities to the governor and the appropriate policy and fiscal committees of the legislature by June 30, 2021.))~~

**NEW SECTION. Sec. 311. PLAY AND LEARN GROUPS.** Subject to the availability of amounts appropriated for this specific purpose, the department, in consultation with community-based programs, shall provide or contract to provide, or both, resources and supports for inclusive and culturally and linguistically relevant play and learn groups. Play and learn groups offer parents and other caregivers culturally responsive opportunities to support their children's early learning, build relationships that reduce isolation and encourage socialization,

and promote kindergarten readiness.

**NEW SECTION. Sec. 312. PROFESSIONAL DEVELOPMENT.** (1) Subject to the availability of amounts appropriated for this specific purpose, the department shall provide professional development supports to aid eligible providers in reaching the professional education and training standards adopted by the department. Professional development supports may include:

(a) Department-required trainings for child care providers conducted by department-approved trainers;

(b) Trainings for license-exempt family, friend, and neighbor child care providers conducted by department-approved trainers;

(c) Early achievers scholarships;

(d) Community-based training pathways and systems developed under RCW 43.216.755;

(e) Supporting a nonprofit organization that provides relationship-based professional development support to family, friend, and neighbor caregivers, child care centers, and licensed family home providers, and their work to help providers start their businesses; and

(f) Other professional development activities such as updating training content, data collection and reporting, trainer recruitment, retention, program monitoring, and trainings delivered by department-approved trainers on topics such as small business management, antibias and antiracist training, providing care for children with developmental disabilities, social-emotional learning, implementing inclusionary practices in early learning environments, infant and toddler care, dual language program development, and providing trauma-informed care.

(2) For the purposes of this section, "eligible provider" means:

(a) An owner of a licensed or certified child care center, licensed or certified outdoor nature-based care, or licensed family home provider accepting state subsidy; (b) an employee of a licensed or certified child care center, licensed or certified outdoor nature-based care, or a licensed family home provider; (c) a contractor or provider of the early childhood education and assistance program or birth to three early childhood education and assistance program; or (d) an early achievers coach.

**NEW SECTION. Sec. 313. NEGOTIATED RULE MAKING WITH CHILD CARE CENTERS.** When the secretary elects to engage in negotiated rule making pursuant to RCW 34.05.310(2)(a), the department must include the largest organization representing child care center owners and directors; the largest organization representing supervisors, teachers, and aides; and other affected interests before adopting requirements that affect child care center licensees.

**NEW SECTION. Sec. 314. CAPACITY FLEXIBILITY FOR FAMILY HOME PROVIDERS.** The department may waive the limit, as established in RCW 43.216.010(1)(c), that restricts family home providers from serving not more than 12 children. The department must establish conditions for such waivers by rule and must assess, at minimum, the provider's available square footage and staffing capabilities prior to issuing any waiver of the limit of 12 children.

**NEW SECTION. Sec. 315. SUPPORT FOR CHILD CARE DESERTS.** (1) Subject to the availability of amounts appropriated for this specific purpose, the department shall establish a grant program to expand child care in child care deserts. Grants must be used for one-time costs associated with the opening of a child care site, including program costs, for providers who are newly licensed or are in the process of becoming licensed.

(2) The department must use the child care industry insights dashboard from the child care industry assessment as a tool to identify areas in which additional investments are needed in order

to expand existing child care capacity to meet family demand and reduce child care deserts.

(3) This section expires June 30, 2026.

#### PART IV

#### STRENGTHENING PRENATAL TO THREE SUPPORTS

**NEW SECTION. Sec. 401. PRENATAL TO THREE INTENT.** (1) The legislature finds that parental relationships and healthy interactions in the first few years of life help shape the development of babies' and toddlers' brains and bodies. Eighty percent of the brain is developed by the age of three and parents are a child's first teachers.

(2) The legislature finds that the federal family first prevention services act (P.L. 115-123) offers the state the opportunity to leverage federal funding for certain programs, including in-home parent skill-based programs, substance use disorder support, and mental health interventions. Culturally relevant, evidence-based programs that may qualify for these federal funds are limited. Therefore, state support may be necessary to serve traditionally underrepresented communities and increase positive engagement from parents and caregivers of children from before birth to age three.

(3) The legislature finds that small teacher-child ratios for infant and toddler care, as well as the existence of child care deserts with low levels of access to care for the birth to three age group, contribute to higher expenses for providers and families with babies and young children.

(4) Therefore, the legislature intends to expand parent and family education and support, incentivize the provision of infant and toddler care, and make early therapeutic and preventative services more readily available to families and young children.

**NEW SECTION. Sec. 402. EDUCATION AND SUPPORT FOR PARENTS AND FAMILY, FRIEND, AND NEIGHBOR CAREGIVERS.** (1) Subject to the availability of amounts appropriated for this specific purpose, the department shall administer a prenatal to three family engagement strategy to support expectant parents, babies and toddlers from birth to three years of age, and their caregivers.

(2) Components of the prenatal to three family engagement strategy must include supports and services to improve maternal and infant health outcomes, reduce and mitigate trauma, promote attachment and other social-emotional assets, strengthen parenting skills, and provide early supports to help maximize healthy and robust childhood development and reduce isolation. Services and supports may include:

(a) In-home parent skill-based programs and training established in RCW 43.216.130;

(b) Facilitated play and learn groups;

(c) Parent peer-support groups, including groups designed for families with children with complex needs; families whose primary home language is not English; incarcerated parents; families coping with substance use disorder or mental health support needs; black, indigenous, and families of color; or other specific needs; and

(d) Other prenatal to age three programs and services.

(3) Continuity of services for babies and toddlers are important for early childhood brain development. Therefore, the services and supports described in this section may be made available to biological parents, foster parents, kinship care providers, and other family, friend, and neighbor caregivers.

**Sec. 403.** RCW 43.216.578 and 2019 c 408 s 8 are each amended to read as follows:

**BIRTH TO THREE EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM.**

(1) ~~(Within resources available under the federal preschool development grant birth to five grant award received in December~~

~~2018.)) Subject to the availability of amounts appropriated for this specific purpose, the department shall ((develop a plan for phased implementation of)) administer a birth to three early childhood education and assistance program ((pilot project)) for eligible children under thirty-six months old. Funds to implement the ((pilot project)) program may include a combination of federal, state, or private sources.~~

~~(2) The department may adopt rules to implement the ((pilot project)) program and may waive or adapt early childhood education and assistance program requirements when necessary to allow for the operation of the birth to three early childhood education and assistance program. The department shall consider early head start rules and regulations when developing the provider and family eligibility requirements and program requirements. ((Any deviations from early head start standards, rules, or regulations must be identified and explained by the department in its annual report under subsection (6) of this section.))~~

~~(3)(a) ((Upon securing adequate funds to begin implementation, the pilot project)) The birth to three early childhood education and assistance program(s) must be delivered through child care centers and family home providers who meet minimum licensing standards and are enrolled in the early achievers program.~~

~~(b) The department must determine minimum early achievers ratings scores for ((programs)) participating ((in the pilot project)) contractors.~~

~~(4) ((When selecting pilot project locations for service delivery, the department may allow each pilot project location to have up to three classrooms per location. When selecting and approving pilot project locations, the department shall attempt to select a combination of rural, urban, and suburban locations. The department shall prioritize locations with programs currently operating early head start, head start, or the early childhood education and assistance program.~~

~~(5)) To be eligible for the birth to three early childhood education and assistance program, a child's family income must be at or below ((one hundred thirty)) 50 percent of the ((federal poverty level)) state median income and the child must be under thirty-six months old.~~

~~((6) Beginning November 1, 2020, and each November 1st thereafter during pilot project activity, the department shall submit an annual report to the governor and legislature that includes a status update that describes the planning work completed, the status of funds secured, and any implementation activities of the pilot project. Implementation activity reports must include a description of the participating programs and number of children and families served.))~~

NEW SECTION. Sec. 404. INFANT CARE INCENTIVES. (1) The legislature finds that our state suffers from an extreme shortage of infant child care, impacting the ability of parents to participate in the workforce. Further, parents returning to work after using paid family leave to care for a new child struggle to find readily available, high quality care during a time of critical growth and brain development for young children. Therefore, the legislature intends to incentivize the provision of high quality infant care.

(2) Beginning July 1, 2022, the department shall provide an infant rate enhancement for licensed or certified child care providers and birth to three early childhood education and assistance program contractors who are:

- (a) Accepting state subsidy;
- (b) In good standing with the early achievers quality rating and improvement system; and

(c) Caring for a child between the ages of birth and 11 months.

(3) The department must adopt rules to implement this section.

NEW SECTION. Sec. 405. EARLY THERAPEUTIC AND PREVENTATIVE SERVICES. (1) Subject to the availability of amounts appropriated for this specific purpose, the department shall administer early therapeutic and preventative services and programs, such as the early childhood intervention and prevention services program, and other related services for children who are:

- (a) Between the ages of birth and five years; and
- (b) Referred by a child welfare worker, a department of social and health services social worker, a primary care physician, a behavioral health provider, or a public health nurse due to: (i) Risk of child abuse or neglect; (ii) exposure to complex trauma; or (iii) significant developmental delays.

(2) Subject to the availability of amounts appropriated for this specific purpose, the department shall make all reasonable efforts to deliver early therapeutic and preventative services and programs statewide. These services and programs must focus first on children and families furthest from opportunity as defined by income and be delivered by programs that emphasize greater racial equity.

**PART V  
CONFORMING AMENDMENTS**

**Sec. 501.** RCW 43.216.010 and 2020 c 270 s 11 are each reenacted and amended to read as follows:

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

(1) "Agency" means any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's own home and includes the following irrespective of whether there is compensation to the agency:

(a) "Child day care center" and "child care center" mean((s)) an agency that regularly provides early childhood education and early learning services for a group of children for periods of less than twenty-four hours;

(b) "Early learning" includes but is not limited to programs and services for child care; state, federal, private, and nonprofit preschool; child care subsidies; child care resource and referral; parental education and support; and training and professional development for early learning professionals;

(c) "Family day care provider" and "family home provider" mean((s)) a child care provider who regularly provides early childhood education and early learning services for not more than twelve children at any given time in the provider's home in the family living quarters except as provided in section 314 of this act;

(d) "Nongovernmental private-public partnership" means an entity registered as a nonprofit corporation in Washington state with a primary focus on early learning, school readiness, and parental support, and an ability to raise a minimum of five million dollars in contributions;

(e) "Service provider" means the entity that operates a community facility.

(2) "Agency" does not include the following:

- (a) Persons related to the child in the following ways:
  - (i) Any blood relative, including those of half-blood, and including first cousins, nephews or nieces, and persons of preceding generations as denoted by prefixes of grand, great, or great-great;
  - (ii) Stepfather, stepmother, stepbrother, and stepsister;
  - (iii) A person who legally adopts a child or the child's parent as well as the natural and other legally adopted children of such persons, and other relatives of the adoptive parents in accordance

with state law; or

(iv) Spouses of any persons named in (a)(i), (ii), or (iii) of this subsection, even after the marriage is terminated;

(b) Persons who are legal guardians of the child;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person providing care for periods of less than twenty-four hours does not conduct such activity on an ongoing, regularly scheduled basis for the purpose of engaging in business, which includes, but is not limited to, advertising such care;

(d) Parents on a mutually cooperative basis exchange care of one another's children;

(e) Nursery schools that are engaged primarily in early childhood education with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(f) Schools, including boarding schools, that are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, and accept only school age children;

(g) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(h) Facilities providing child care for periods of less than twenty-four hours when a parent or legal guardian of the child remains on the premises of the facility for the purpose of participating in:

(i) Activities other than employment; or

(ii) Employment of up to two hours per day when the facility is operated by a nonprofit entity that also operates a licensed child care program at the same facility in another location or at another facility;

(i) Any entity that provides recreational or educational programming for school age children only and the entity meets all of the following requirements:

(i) The entity utilizes a drop-in model for programming, where children are able to attend during any or all program hours without a formal reservation;

(ii) The entity does not assume responsibility in lieu of the parent, unless for coordinated transportation;

(iii) The entity is a local affiliate of a national nonprofit; and

(iv) The entity is in compliance with all safety and quality standards set by the associated national agency;

(j) A program operated by any unit of local, state, or federal government;

(k) A program located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(l) A program located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter;

(m) A program that offers early learning and support services, such as parent education, and does not provide child care services on a regular basis.

(3) "Applicant" means a person who requests or seeks employment in an agency.

(4) "Certificate of parental improvement" means a certificate issued under RCW 74.13.720 to an individual who has a founded finding of physical abuse or negligent treatment or maltreatment, or a court finding that the individual's child was dependent as a result of a finding that the individual abused or neglected their child pursuant to RCW 13.34.030(6)(b).

(5) "Conviction information" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the applicant.

(6) "Department" means the department of children, youth, and families.

(7) "Early achievers" means a program that improves the quality of early learning programs and supports and rewards providers for their participation.

(8) "Early childhood education and assistance program contractor" means an organization that provides early childhood education and assistance program services under a signed contract with the department.

(9) "Early childhood education and assistance program provider" means an organization that provides site level, direct, and high quality early childhood education and assistance program services under the direction of an early childhood education and assistance program contractor.

~~(10) ("Early start" means an integrated high quality continuum of early learning programs for children birth to five years of age. Components of early start include, but are not limited to, the following:~~

~~(a) Home visiting and parent education and support programs;~~

~~(b) The early achievers program described in RCW 43.216.085;~~

~~(c) Integrated full day and part day high quality early learning programs; and~~

~~(d) High quality preschool for children whose family income is at or below one hundred ten percent of the federal poverty level.~~

~~(11) "Education data center" means the education data center established in RCW 43.41.400, commonly referred to as the education research and data center.~~

~~(12) "Employer" means a person or business that engages the services of one or more people, especially for wages or salary to work in an agency.~~

~~(13) "Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.216.325(1) or assessment of civil monetary penalties pursuant to RCW 43.216.325(3).~~

~~(14) "Extended day program" means an early childhood education and assistance program that offers early learning education for at least ten hours per day, a minimum of two thousand hours per year, at least four days per week, and operates year-round.~~

~~(15) "Family resource and referral linkage system" means a system that connects families to resources, services, and programs for which families are eligible and uses a database that is developed and maintained in partnership with communities, health care providers, and early learning providers.~~

~~(16) "Full day program" means an early childhood education and assistance program that offers early learning education for a minimum of one thousand hours per year.~~

~~(17) "Low-income child care provider" means a person who administers a child care program that consists of at least eighty percent of children receiving working connections child care subsidy.~~

~~(18) "Low-income neighborhood" means a district or community where more than twenty percent of households are below the federal poverty level.~~

~~(19) "Negative action" means a court order, court judgment, or an adverse action taken by an agency, in any state, federal, tribal, or foreign jurisdiction, which results in a finding against the applicant reasonably related to the individual's character, suitability, and competence to care for or have unsupervised access to children in child care. This may include, but is not limited to:~~

~~(a) A decision issued by an administrative law judge;~~

~~(b) A final determination, decision, or finding made by an agency following an investigation;~~

~~(c) An adverse agency action, including termination, revocation, or denial of a license or certification, or if pending~~

adverse agency action, the voluntary surrender of a license, certification, or contract in lieu of the adverse action;

(d) A revocation, denial, or restriction placed on any professional license; or

(e) A final decision of a disciplinary board.

(19) "Nonconviction information" means arrest, founded allegations of child abuse, or neglect pursuant to chapter 26.44 RCW, or other negative action adverse to the applicant.

(20) "Nonschool age child" means a child who is age six years or younger and who is not enrolled in a public or private school.

(21) "Part day program" means an early childhood education and assistance program that offers early learning education for at least two and one-half hours per class session, at least three hundred twenty hours per year, for a minimum of thirty weeks per year.

(22) "Private school" means a private school approved by the state under chapter 28A.195 RCW.

(23) "Probationary license" means a license issued as a disciplinary measure to an agency that has previously been issued a full license but is out of compliance with licensing standards.

(24) "Requirement" means any rule, regulation, or standard of care to be maintained by an agency.

(25) "School age child" means a child who is five years of age through ~~((twelve))~~ 12 years of age and is attending a public or private school or is receiving home-based instruction under chapter 28A.200 RCW.

(26) "Secretary" means the secretary of the department.

(27) "Washington state preschool program" means an education program for children three-to-five years of age who have not yet entered kindergarten, such as the early childhood education and assistance program.

**Sec. 502.** RCW 28B.50.248 and 2020 c 355 s 4 and 2020 c 279 s 3 are each reenacted and amended to read as follows:

Nothing in RCW 43.216.135~~((;))~~ or 43.216.136~~((; or 43.216.1365))~~ requires a community or technical college to expand any of its existing child care facilities. Any additional child care services provided by a community or technical college as a result of RCW 43.216.135~~((;))~~ or 43.216.136~~((; or 43.216.1365))~~ must be provided within existing resources and existing facilities.

**Sec. 503.** RCW 43.84.092 and 2020 c 354 s 11, 2020 c 221 s 5, 2020 c 103 s 7, and 2020 c 18 s 3 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury

income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community ~~((trust))~~ services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the

perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the state wildlife account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based

upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 504.** RCW 43.84.092 and 2020 c 354 s 11, 2020 c 221 s 5, 2020 c 148 s 3, 2020 c 103 s 7, and 2020 c 18 s 3 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the ambulance transport fund, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community ~~(trust)~~ services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities

development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary

cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 505.** RCW 43.84.092 and 2020 c 221 s 5, 2020 c 148 s 3, 2020 c 103 s 7, and 2020 c 18 s 3 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The abandoned recreational vehicle disposal account, the aeronautics account, the Alaskan Way viaduct replacement project account, the brownfield redevelopment trust fund account, the budget stabilization account, the capital vessel replacement account, the capitol building construction account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the Chehalis basin account, the Chehalis basin taxable account, the cleanup settlement account, the Columbia river basin water supply development account, the Columbia river basin taxable bond water supply development account, the Columbia river basin water supply revenue recovery account, the common school construction fund, the community forest trust account, the connecting Washington account, the county arterial preservation account, the county criminal justice assistance account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community ~~((trust))~~ services account, the diesel idle reduction account, the drinking water assistance account, the administrative subaccount of the drinking water assistance account, the early learning facilities development account, the early learning facilities revolving account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the electric vehicle account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the fair start for kids account, the ferry bond retirement fund, the fish, wildlife, and conservation account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the state higher education construction account, the higher education retirement plan supplemental benefit fund, the highway bond retirement fund, the highway infrastructure account, the highway safety fund, the hospital safety net assessment fund, the Interstate 405 and state route number 167 express toll lanes account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the limited fish and wildlife account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the marine resources stewardship trust account, the medical aid account, the money-purchase retirement savings administrative account, the money-purchase retirement savings principal account, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the multiuse roadway safety account, the municipal criminal justice assistance account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the pilotage account, the pollution liability insurance agency underground storage tank revolving account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account, the public health supplemental account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry

operations account, the Puget Sound Gateway facility account, the Puget Sound taxpayer accountability account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural mobility grant program account, the rural Washington loan fund, the sexual assault prevention and response account, the site closure account, the skilled nursing facility safety net trust fund, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state reclamation revolving account, the state route number 520 civil penalties account, the state route number 520 corridor account, the statewide broadband account, the statewide tourism marketing account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the toll facility bond retirement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation future funding program account, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the University of Washington bond retirement fund, the University of Washington building account, the voluntary cleanup account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the vulnerable roadway user education account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving administration account, the water pollution control revolving fund, the Western Washington University capital projects account, the Yakima integrated plan implementation account, the Yakima integrated plan implementation revenue recovery account, and the Yakima integrated plan implementation taxable bond account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts.

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 506.** RCW 43.216.710 and 2017 3rd sp.s. c 6 s 213 are each amended to read as follows:

The department shall:

(1) Work in conjunction with the statewide child care resource and referral network as well as local governments, nonprofit



organizations, businesses, and community child care advocates to create local child care resource and referral organizations. These organizations may carry out needs assessments, resource development, provider training, technical assistance, and parent information and training;

(2) Actively seek public and private money for distribution as grants to the statewide child care resource and referral network and to existing or potential local child care resource and referral organizations;

(3) Adopt rules regarding the application for and distribution of grants to local child care resource and referral organizations. The rules shall, at a minimum, require an applicant to submit a plan for achieving the following objectives:

(a) Provide parents with information about child care resources, including location of services and subsidies;

(b) Carry out child care provider recruitment and training programs, including training under RCW 74.25.040;

(c) Offer support services, such as parent and provider seminars, toy-lending libraries, and substitute banks;

(d) Provide information for businesses regarding child care supply and demand;

(e) Advocate for increased public and private sector resources devoted to child care;

(f) Provide technical assistance to employers regarding employee child care services; and

(g) Serve recipients of temporary assistance for needy families and working parents with household incomes at or below ~~((household incomes of two hundred))~~ 100 percent of the ~~((federal poverty line))~~ state median income;

(4) Provide staff support and technical assistance to the statewide child care resource and referral network and local child care resource and referral organizations;

(5) Maintain a statewide child care licensing data bank and work with department licensors to provide information to local child care resource and referral organizations about licensed or certified child care providers in the state;

(6) Through the statewide child care resource and referral network and local resource and referral organizations, compile data about local child care needs and availability for future planning and development;

(7) Coordinate with the statewide child care resource and referral network and local child care resource and referral organizations for the provision of training and technical assistance to child care providers;

(8) Collect and assemble information regarding the availability of insurance and of federal and other child care funding to assist state and local agencies, businesses, and other child care providers in offering child care services;

(9) Subject to the availability of amounts appropriated for this specific purpose, increase the base rate for all child care providers by ten percent;

(10) Subject to the availability of amounts appropriated for this specific purpose, provide tiered subsidy rate enhancements to child care providers if the provider meets the following requirements:

(a) The provider enrolls in quality rating and improvement system levels 2, 3, 4, or 5;

(b) The provider is actively participating in the early achievers program;

(c) The provider continues to advance towards level 5 of the early achievers program; and

(d) The provider must complete level 2 within thirty months or the reimbursement rate returns the level 1 rate; and

(11) Require exempt providers to participate in continuing

education, if adequate funding is available.

**Sec. 507.** RCW 43.216.514 and 2020 c 343 s 3 are each amended to read as follows:

(1)(a) The department shall prioritize children for enrollment in the early childhood education and assistance program who are eligible pursuant to RCW 43.216.505.

(b) A child who is eligible at the time of enrollment in the early childhood education and assistance program maintains program eligibility until the child begins kindergarten.

(2) As space is available, children may be included in the early childhood education and assistance program pursuant to RCW 43.216.512. ~~((Priority within this group must be given first to children with incomes up to one hundred thirty percent of the federal poverty level.))~~

**Sec. 508.** RCW 43.216.136 and 2020 c 279 s 2 are each amended to read as follows:

(1) The department shall establish and implement policies in the working connections child care program to promote stability and quality of care for children from low-income households. These policies shall focus on supporting school readiness for young learners. Policies for the expenditure of funds constituting the working connections child care program must be consistent with the outcome measures established by the department and the standards established in this section intended to promote stability, quality, and continuity of early care and education programming.

(2) As recommended by P.L. 113-186, authorizations for the working connections child care subsidy are effective for twelve months beginning July 1, 2016~~((, unless an earlier date is provided in the omnibus appropriations act)).~~

(a) A household's 12-month authorization must begin on the date that child care is expected to begin.

(b) If a newly eligible household does not begin care within 12 months of being determined eligible by the department, the household must reapply in order to qualify for subsidy.

(3)(a) The department shall establish and implement policies in the working connections child care program to allow eligibility for families with children who:

(i) In the last six months have:

(A) Received child protective services as defined and used by chapters 26.44 and 74.13 RCW;

(B) Received child welfare services as defined and used by chapter 74.13 RCW; or

(C) Received services through a family assessment response as defined and used by chapter 26.44 RCW;

(ii) Have been referred for child care as part of the family's case management as defined by RCW 74.13.020; and

(iii) Are residing with a biological parent or guardian.

(b) ~~((Children))~~ Families who are eligible for working connections child care pursuant to this subsection do not have to keep receiving services identified in this subsection to maintain twelve-month authorization.

(4)(a) Beginning August 1, 2020, the department may not require an applicant or consumer to meet work requirements as a condition of receiving working connections child care benefits when the applicant or consumer is:

(i) A single parent;

(ii) A full-time student of a community, technical, or tribal college; and

(iii) Pursuing vocational education that leads to a degree or certificate in a specific occupation, not to result in a bachelor's or advanced degree.

(b) An applicant or consumer is a full-time student for the purposes of this subsection if he or she meets the college's definition of a full-time student. The student must maintain

passing grades and be in good standing pursuant to college attendance requirements.

(c) Nothing in this subsection is intended to change how applicants or consumers are prioritized when applicants or consumers are placed on a waitlist for working connections child care benefits.

(5)(a) The department must extend the homeless grace period, as adopted in department rule as of January 1, 2020, from a four-month grace period to a twelve-month grace period.

(b) For the purposes of this section, "homeless" means being without a fixed, regular, and adequate nighttime residence as described in the federal McKinney-Vento homeless assistance act (42 U.S.C. Sec. 11434a) as it existed on January 1, 2020.

(6) For purposes of this section, "authorization" means a transaction created by the department that allows a child care provider to claim payment for care. The department may adjust an authorization based on a household's eligibility status.

#### PART VI MISCELLANEOUS

NEW SECTION. Sec. 601. Nothing in this act changes the department's responsibility to collectively bargain over mandatory subjects consistent with RCW 41.56.028(3) or limits the legislature's authority to make programmatic modifications to licensed child care and early learning programs consistent with legislative reservation of rights under RCW 41.56.028(4)(d).

NEW SECTION. Sec. 602. RCW 43.216.1365 (Working connections child care program—Eligibility) and 2020 c 355 s 3 are each repealed.

NEW SECTION. Sec. 603. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 604. Sections 204 through 206 and 403 of this act take effect July 1, 2026.

NEW SECTION. Sec. 605. Section 202 of this act takes effect August 1, 2021.

NEW SECTION. Sec. 606. Section 508 of this act expires August 1, 2021.

NEW SECTION. Sec. 607. Sections 101, 102, 106, 201, 206, 207, 302 through 307, 309, 311 through 314, 402, 404, 405, and 601 of this act are each added to chapter 43.216 RCW.

NEW SECTION. Sec. 608. Section 503 of this act expires July 1, 2021.

NEW SECTION. Sec. 609. Sections 301, 310, and 504 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect July 1, 2021.

NEW SECTION. Sec. 610. Section 504 of this act expires July 1, 2024.

NEW SECTION. Sec. 611. Section 505 of this act takes effect July 1, 2024.

NEW SECTION. Sec. 612. Sections 105 and 503 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

#### MOTION

Senator Wilson, C. moved that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5237 and request of the House a conference thereon.

Senators Wilson, C. and Hawkins spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Wilson, C. that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5237 and request a conference thereon.

The motion by Senator Wilson, C. carried and the Senate refused to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5237 and requested of the House a conference thereon by voice vote.

#### APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Second Substitute Senate Bill No. 5237 and the House amendment(s) thereto: Senators Billig, Hawkins and Wilson, C.

#### MOTION

On motion of Senator Liias, the appointments to the conference committee were confirmed.

#### MESSAGE FROM THE HOUSE

April 12, 2021

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to HOUSE BILL NO. 1022 and asks the Senate to recede therefrom, and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

#### MOTION

Senator Keiser moved that the Senate insist on its position in the House amendment(s) to House Bill No. 1022 and requests of the House a conference thereon.

Senators Keiser and King spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Keiser that the Senate insist on its position in the House amendment(s) to House Bill No. 1022 and request of the House a conference thereon.

The motion by Senator Keiser carried and the Senate insisted on its position in the House amendment(s) to House Bill No. 1022 and requested of the House a conference thereon by voice vote.

#### APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on House Bill No. 1022 and the House amendment(s) thereto: Senators Dhingra, Padden and Pedersen.

#### MOTION

On motion of Senator Liias, the appointments to the conference committee were confirmed.

#### MOTION

On motion of Senator Wagoner, Senator Honeyford was excused.

## MESSAGE FROM THE HOUSE

April 14, 2021

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1310 and asks the Senate for a conference thereon. The Speaker has appointed the following members as conferees; Representatives: Johnson, J., Goodman, Mosbrucker and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

## MOTION

Senator Pedersen that the Senate grant the request of the House for a conference on Engrossed Second Substitute House Bill No. 1310 and the Senate amendment(s) thereto.

Senators Pedersen and Padden spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Pedersen that the Senate grant the request of the House for a conference on Engrossed Second Substitute House Bill No. 1310 and the Senate amendment(s) thereto.

The motion by Senator Pedersen carried and the Senate granted the conference on Engrossed Second Substitute House Bill No. 1310 and the Senate amendment(s) thereto by voice vote.

## APPOINTMENT OF CONFERENCE COMMITTEE

The President appointed as members of the Conference Committee on Engrossed Second Substitute House Bill No. 1310 and the House amendment(s) thereto: Senators Dhingra, Padden and Pedersen.

## MOTION

On motion of Senator Liias, the appointments to the conference committee were confirmed.

## MESSAGE FROM THE HOUSE

April 16, 2021

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 1425 and asks the Senate to recede therefrom.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

## MOTION

Senator Randall moved that the Senate recede from its position on House Bill No. 1425 and pass the bill without the Senate amendment(s).

Senators Randall and Holy spoke in favor of passage of the motion.

Senator Short spoke against the motion.

The President declared the question before the Senate to be motion by Senator Randall that the Senate recede from its position on House Bill No. 1425 and pass the bill without Senate amendment(s).

The motion by Senator Randall carried and the Senate receded from its position on House Bill No. 1425 and passed the bill without the Senate amendment(s) by voice vote.

The President declared the question before the Senate to be the final passage of House Bill No. 1425 without the Senate amendment(s).

## ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1425, without the Senate amendment(s), and the bill passed the Senate by the following vote: Yeas, 37; Nays, 12; Absent, 0; Excused, 0.

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

Voting nay: Senators Braun, Brown, Dozier, Ericksen, Honeyford, McCune, Muzzall, Rivers, Schoesler, Short, Warnick and Wilson, L.

SUBSTITUTE HOUSE BILL NO. 1425, without the Senate amendment(s), 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.

## MESSAGE FROM THE HOUSE

April 6, 2021

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5214 with the following amendment(s): 5214-S2 AMH APP H1489.2

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 74.08A.010 and 2020 c 320 s 1 are each amended to read as follows:

(1) A family that includes an adult who has received temporary assistance for needy families for sixty months after July 27, 1997, shall be ineligible for further temporary assistance for needy families assistance.

(2) For the purposes of applying the rules of this section, the department shall count any month in which an adult family member received a temporary assistance for needy families cash assistance grant unless the assistance was provided when the adult family member was a minor child and not the head of the household or married to the head of the household.

(3) The department shall adopt regulations to apply the sixty-month time limit to households in which a parent is in the home and ineligible for temporary assistance for needy families. Any regulations shall be consistent with federal funding requirements.

(4) The department shall refer recipients who require specialized assistance to appropriate department programs, crime victims' programs through the department of commerce, or the crime victims' compensation program of the department of labor and industries.

(5)(a) The department shall add to adopted rules related to temporary assistance for needy families time limit extensions, the following criteria by which the department shall exempt a recipient and the recipient's family from the application of subsection (1) of this section:

(i) By reason of hardship, including when ~~((the))~~:

(A) The recipient's family includes a child or youth who is

without a fixed, regular, and adequate nighttime residence as described in the federal McKinney-Vento homeless assistance act (Title 42 U.S.C., chapter 119, subchapter VI, part B) as it existed on January 1, 2020; or

(B) The recipient received temporary assistance for needy families during a month on or after March 1, 2020, when Washington state's unemployment rate as published by the Washington employment security department was equal to or greater than seven percent, and the recipient is otherwise eligible for temporary assistance for needy families except that they have exceeded 60 months. The extension provided for under this subsection (5)(a)(i)(B) is equal to the number of months that the recipient received temporary assistance for needy families during a month after March 1, 2020, when the unemployment rate was equal to or greater than seven percent, and is applied sequentially to any other hardship extensions that may apply under this subsection (5) or in rule; or

(ii) If the family includes an individual who meets the family violence options of section 402(A)(7) of Title IVA of the federal social security act as amended by P.L. 104-193.

(b) Policies related to circumstances under which a recipient will be exempted from the application of subsection (1) or (3) of this section shall treat adults receiving benefits on their own behalf, and parents receiving benefits on behalf of their child similarly, unless required otherwise under federal law.

(6) The department shall not exempt a recipient and his or her family from the application of subsection (1) or (3) of this section until after the recipient has received fifty-two months of assistance under this chapter.

(7) The department shall provide transitional food assistance for a period of five months to a household that ceases to receive temporary assistance for needy families assistance and is not in sanction status. If necessary, the department shall extend the household's basic food certification until the end of the transition period.

**NEW SECTION. Sec. 2.** If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

**NEW SECTION. Sec. 3.** A new section is added to chapter 74.08A RCW to read as follows:

All families who have received temporary assistance for needy families since March 1, 2020, are eligible for the extension under RCW 74.08A.010(5)(a)(i)(B), regardless of whether they are current recipients. Eligible families shall only receive temporary assistance for needy families benefits that accrue after the effective date of this act.

**NEW SECTION. Sec. 4.** This act takes effect July 1, 2023, only if specific funding for extending the 60-month time limit through the 2021-2023 biennium, is provided by June 30, 2021, in the omnibus appropriations act. If specific funding for extending the 60-month time limit through the 2021-2023 biennium is not provided by June 30, 2021, in the omnibus appropriations act, this act takes effect 90 days after final adjournment of the legislative session in which it is enacted."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

## MOTION

Senator Nguyen moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5214.

Senators Nguyen and Gildon spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Nguyen that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5214.

The motion by Senator Nguyen carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5214 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5214, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5214, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 31; Nays, 18; Absent, 0; Excused, 0.

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

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

SECOND SUBSTITUTE SENATE BILL NO. 5214, as amended by the House, 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.

## MESSAGE FROM THE HOUSE

April 6, 2021

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5183 with the following amendment(s): 5183-S2 AMH PS H1363.1

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that nonfatal strangulation is among the most dangerous acts of domestic violence and sexual assault. Strangulation involves external compression of the victim's airway and blood vessels, causing reduced air and blood flow to the brain. Victims may show no or minimal external signs of injury despite having life-threatening internal injuries including traumatic brain injury. Injuries may present after the assault or much later and may persist for months and even years postassault. Victims who are strangled multiple times face a greater risk of traumatic brain injury. Traumatic brain injury symptoms are often not recognized as assault-related and may include cognitive difficulties such as decreased ability to concentrate, make decisions, and solve problems. Traumatic brain injury symptoms may also include behavior and personality changes such as irritability, impulsivity, and mood swings.

Domestic violence victims who have been nonfatally strangled are eight times more likely to become a subsequent victim of homicide at the hands of the same abusive partner. Research shows that previous acts of strangulation are a unique and substantial predictor of attempted and completed homicide against an intimate partner.

For years, forensic nurses in Washington have provided high-level care to sexual assault victims. Forensic nurses are also trained in medical evaluation of nonfatal strangulation, but only provide this evaluation in cases of sexual assault involving strangulation, as crime victims' compensation will not reimburse in nonsexual assault cases. Strangulation affects victims physically and psychologically. These victims deserve a higher standard of response and medical care. Allowing crime victims' compensation to reimburse for forensic nurse examinations for victims of domestic violence strangulation will provide a better, more victim-centered response in the most dangerous of domestic violence felony cases.

**NEW SECTION. Sec. 2.** A new section is added to chapter 43.280 RCW to read as follows:

(1) The office of crime victims advocacy shall develop best practices that local communities may use on a voluntary basis to create more access to forensic nurse examiners in cases of nonfatal strangulation assault including, but not limited to, partnerships to serve multiple facilities, mobile nurse examiner teams, and multidisciplinary teams to serve victims in local communities.

(a) When developing the best practices, the office of crime victims advocacy shall consult with:

- (i) The Washington association of sheriffs and police chiefs;
- (ii) The Washington association of prosecuting attorneys;
- (iii) The Washington state coalition against domestic violence;
- (iv) The Harborview abuse and trauma center;
- (v) The Washington state hospital association;
- (vi) The Washington state association of counties;
- (vii) The association of Washington cities;
- (viii) The Washington coalition of sexual assault programs;
- (ix) The schools of nursing at Washington State University and the University of Washington;

(x) Collective bargaining representatives of frontline nurse examiners; and

(xi) Other organizations deemed appropriate by the office of crime victims advocacy.

(b) The office of crime victims advocacy shall complete the best practices no later than January 1, 2022, and publish them on its website.

(2) The office of crime victims advocacy shall develop strategies to make forensic nurse examiner training available to nurses in all regions of the state without requiring the nurses to travel unreasonable distances and without requiring medical facilities or the nurses to incur unreasonable expenses. Among other important factors deemed relevant and appropriate by the office of crime victims advocacy, the strategies should take into account the unique challenges faced by medical facilities and nurses operating in rural areas.

(a) When developing the strategies, the office of crime victims advocacy shall consult with:

- (i) The Harborview abuse and trauma center;
- (ii) The department of health;
- (iii) The nursing care quality assurance commission;
- (iv) The Washington state nurses association;
- (v) The Washington state hospital association;
- (vi) The schools of nursing at Washington State University and the University of Washington;

(vii) Forensic nurse practitioners; and

(viii) Other organizations deemed appropriate by the office of crime victims advocacy.

(b) The office of crime victims advocacy shall report the strategies to the governor and the appropriate committees of the legislature no later than October 1, 2022.

(3) This section expires June 30, 2023.

**NEW SECTION. Sec. 3.** A new section is added to chapter 7.68 RCW to read as follows:

(1) No costs incurred by a hospital or other emergency medical facility for the examination of the victim of domestic violence assault involving nonfatal strangulation, when such examination is performed for the purposes of gathering evidence for possible prosecution, shall be billed or charged directly or indirectly to the victim of such assault. Such costs shall be paid by the state pursuant to this chapter.

(2) The department must notify the office of financial management and the fiscal committees of the legislature if it projects that the cost of services provided under this section exceeds the amount of funding provided by the legislature solely for the purposes of this section.

(3) No later than October 1, 2022, the department shall report to the legislature the following information for fiscal year 2022:

(a) The number, type, and amount of claims received by victims of suspected nonfatal strangulation, with a subtotal of claims that also involved sexual assault;

(b) The number, type, and amount of claims paid for victims of suspected nonfatal strangulation, with a subtotal of claims that also involved sexual assault; and

(c) The number of police reports filed by victims of suspected nonfatal strangulation who received services under this section.

(4) This section expires June 30, 2023."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

#### MOTION

Senator Nobles moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5183.

Senator Nobles spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Nobles that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5183.

The motion by Senator Nobles carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5183 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5183, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5183, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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, Lias, 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.

SECOND SUBSTITUTE SENATE BILL NO. 5183, as amended by the House, 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.

#### PARLIAMENTARY INQUIRY

Senator Darneille: “Thank you Mr. President. My inquiry is about votes that we can physically see on the screen that are not recorded as a vote. It seemed last week that you were allowing a thumbs up for a vote when a person could not communicate verbally and that did not happen with a vote by Senator Wellman a couple of votes ago and I wonder what your procedures are?”

#### REPLY BY THE PRESIDENT

President Heck: “Senator Darneille, it was a voice vote.”

Senator Darneille: “I believe that was a final vote Mr. President.”

President Heck: “So, Senator Darneille, we did not know that she was having problems. What we knew was that she was not responding to the prompt to cast her vote. We will continue to monitor the screen as best we can and when given an indication. But we don’t know whether a member is having technical problems, or they’ve stepped out of the room for a bio-break. But we will keep an eye on it.”

#### MESSAGE FROM THE HOUSE

April 11, 2021

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5368 with the following amendment(s): 5368-S2 AMH APP H1490.1

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** A new section is added to chapter 35A.14 RCW to read as follows:

(1) A code city as provided in RCW 35A.14.296(2) may collaborate with the county or counties where the code city is located to form an interlocal agreement regarding annexation of unincorporated territory within the urban growth area boundary. The interlocal agreement formation process must include procedures for public participation. The procedures must provide for broad dissemination of proposals and alternatives, opportunity for written comments, public meetings after effective notice, and consideration of and response to public comments. The interlocal agreement may only be executed after notice of availability of the agreement is posted on the website of each legislative body for four weeks and a public hearing by each legislative body, separately or jointly. This method of annexation shall be an alternative method and is additional to all other methods provided for in this chapter.

(2) An interlocal agreement under this section may include use of a sales tax credit for annexed areas should such a credit be reinstated by the legislature.

(3) The agreement or plan under this section must address the

following:

(a) A balancing of annexations of commercial, industrial, and residential properties so that any potential loss or gain is considered and distributed fairly as determined by tax revenue;

(b) Development, ownership, and maintenance of infrastructure;

(c) The potential for revenue-sharing agreements.

(4) In addressing the items in subsection (3)(a) through (c) of this section, the parties must also address the balancing of factors and objectives for annexation review in RCW 36.93.170 and 36.93.180.

(5) By December 1, 2021, the association of Washington cities and the Washington state association of counties shall report to the legislature, in compliance with RCW 43.01.036, on how a sales tax credit may be utilized to encourage appropriate annexations and what limits should be associated with such a credit if reinstated.

**Sec. 2.** RCW 36.70A.330 and 1997 c 429 s 21 are each amended to read as follows:

(1) After the time set for complying with the requirements of this chapter under RCW 36.70A.300(3)(b) has expired, or at an earlier time upon the motion of a county or city subject to a determination of invalidity under RCW 36.70A.300, the board shall set a hearing for the purpose of determining whether the state agency, county, or city is in compliance with the requirements of this chapter.

(2) The board shall conduct a hearing and issue a finding of compliance or noncompliance with the requirements of this chapter and with any compliance schedule established by the board in its final order. A person with standing to challenge the legislation enacted in response to the board’s final order may participate in the hearing along with the petitioner and the state agency, county, or city. A hearing under this subsection shall be given the highest priority of business to be conducted by the board, and a finding shall be issued within forty-five days of the filing of the motion under subsection (1) of this section with the board. The board shall issue any order necessary to make adjustments to the compliance schedule and set additional hearings as provided in subsection (5) of this section.

(3) If the board after a compliance hearing finds that the state agency, county, or city is not in compliance, the board shall transmit its finding to the governor. (~~The~~)

(a) The board may refer a finding of noncompliance to the department. The purpose of the referral is for the department to provide technical assistance to facilitate speedy resolution of the finding of noncompliance and to provide training pursuant to section 3 of this act as necessary.

(b) Alternatively, the board may recommend to the governor that the sanctions authorized by this chapter be imposed. The board shall take into consideration the county’s or city’s efforts to meet its compliance schedule in making the decision to recommend sanctions to the governor.

(4) In a compliance hearing upon petition of a party, the board shall also reconsider its final order and decide, if no determination of invalidity has been made, whether one now should be made under RCW 36.70A.302.

(5) The board shall schedule additional hearings as appropriate pursuant to subsections (1) and (2) of this section.

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

(1) The department shall offer training to assist local governments in understanding findings of noncompliance from the growth management hearings board pursuant to RCW 36.70A.300 and 36.70A.330 and applying prior decisions of the board to ongoing planning efforts to avoid findings of

noncompliance.

(2) The department may award grants to a public agency with appropriate expertise and funded by local governments to provide the training required in subsection (1) of this section.

(3) The training provided in subsection (1) of this section is limited to counties that are largely rural.

**Sec. 4.** RCW 43.155.070 and 2017 3rd sp.s. c 10 s 9 are each amended to read as follows:

(1) To qualify for financial assistance under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a capital facility plan; and

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) Except where necessary to address a public health need or substantial environmental degradation, and except as provided in subsection (12) of this section, a county, city, or town planning under RCW 36.70A.040 may not receive financial assistance under this chapter unless it has adopted a comprehensive plan, including a capital facilities plan element, and development regulations as required by RCW 36.70A.040. This subsection does not require any county, city, or town planning under RCW 36.70A.040 to adopt a comprehensive plan or development regulations before requesting or receiving financial assistance under this chapter if such request is made before the expiration of the time periods specified in RCW 36.70A.040. A county, city, or town planning under RCW 36.70A.040 that has not adopted a comprehensive plan and development regulations within the time periods specified in RCW 36.70A.040 may apply for and receive financial assistance under this chapter if the comprehensive plan and development regulations are adopted as required by RCW 36.70A.040 before executing a contractual agreement for financial assistance with the board.

(3) In considering awarding financial assistance for public facilities to special districts requesting funding for a proposed facility located in a county, city, or town planning under RCW 36.70A.040, the board must consider whether the county, city, or town planning under RCW 36.70A.040 in whose planning jurisdiction the proposed facility is located has adopted a comprehensive plan and development regulations as required by RCW 36.70A.040.

(4)(a) The board must develop a process to prioritize applications and funding of loans and grants for public works projects submitted by local governments. The board must consider, at a minimum and in any order, the following factors in prioritizing projects:

(i) Whether the project is critical in nature and would affect the health and safety of many people;

(ii) The extent to which the project leverages other funds;

(iii) The extent to which the project is ready to proceed to construction;

(iv) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

(v) Whether the project promotes the sustainable use of resources and environmental quality, as applicable;

(vi) Whether the project consolidates or regionalizes systems;

(vii) Whether the project encourages economic development through mixed-use and mixed income development consistent with chapter 36.70A RCW;

(viii) Whether the system is being well-managed in the present

and for long-term sustainability;

(ix) Achieving equitable distribution of funds by geography and population;

(x) The extent to which the project meets the following state policy objectives:

(A) Efficient use of state resources;

(B) Preservation and enhancement of health and safety;

(C) Abatement of pollution and protection of the environment;

(D) Creation of new, family-wage jobs, and avoidance of shifting existing jobs from one Washington state community to another;

(E) Fostering economic development consistent with chapter 36.70A RCW;

(F) Efficiency in delivery of goods and services and transportation; and

(G) Reduction of the overall cost of public infrastructure;

(xi) Whether the applicant sought or is seeking funding for the project from other sources; and

(xii) Other criteria that the board considers necessary to achieve the purposes of this chapter.

(b) Before September 1, 2018, and each year thereafter, the board must develop and submit a report regarding the construction loans and grants to the office of financial management and appropriate fiscal committees of the senate and house of representatives. The report must include:

(i) The total number of applications and amount of funding requested for public works projects;

(ii) A list and description of projects approved in the preceding fiscal year with project scores against the board's prioritization criteria;

(iii) The total amount of loan and grants disbursements made from the public works assistance account in the preceding fiscal year;

(iv) The total amount of loan repayments in the preceding fiscal year for outstanding loans from the public works assistance account;

(v) The total amount of loan repayments due for outstanding loans for each fiscal year over the following ten-year period; and

(vi) The total amount of funds obligated and timing of when the funds were obligated in the preceding fiscal year.

(c) The maximum amount of funding that the board may provide for any jurisdiction is ten million dollars per biennium.

(5) Existing debt or financial obligations of local governments may not be refinanced under this chapter. Each local government applicant must provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(6) Before September 1st of each year, the board must develop and submit to the appropriate fiscal committees of the senate and house of representatives a description of the loans and grants made under RCW 43.155.065 and 43.155.068.

(7) The board may not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds to the board for the purpose of funding public works projects under this chapter.

(8) To qualify for loans, grants, or pledges for solid waste or recycling facilities under this chapter, a city or county must demonstrate that the solid waste or recycling facility is consistent with and necessary to implement the comprehensive solid waste management plan adopted by the city or county under chapter 70.95 RCW.

(9) After January 1, 2010, any project designed to address the effects of stormwater or wastewater on Puget Sound may be funded under this section only if the project is not in conflict with

the action agenda developed by the Puget Sound partnership under RCW 90.71.310.

(10) For projects involving repair, replacement, or improvement of a wastewater treatment plant or other public works facility for which an investment grade efficiency audit is reasonably obtainable, the public works board must require as a contract condition that the project sponsor undertake an investment grade efficiency audit. The project sponsor may finance the costs of the audit as part of its public works assistance account program loan or grant.

(11) The board must implement policies and procedures designed to maximize local government consideration of other funds to finance local infrastructure.

(12) The provisions in subsection (2) of this section do not apply to a county, city, or town applying for grants and loans under this chapter for projects that support broadband services where such grants and loans will assist the county, city, or town with economic development, disaster resiliency and response, adaptation to public health emergencies such as pandemics, and emergency management.

NEW SECTION. Sec. 5. A new section is added to chapter 43.160 RCW to read as follows:

The board is prohibited from considering whether a county, city, or town is compliant with chapter 36.70A RCW when considering applications for broadband funding.

NEW SECTION. Sec. 6. A new section is added to chapter 80.36 RCW to read as follows:

The commission is prohibited from considering whether a county, city, or town is compliant with chapter 36.70A RCW when considering applications for broadband funding.

NEW SECTION. Sec. 7. A new section is added to chapter 43.330 RCW to read as follows:

The department is prohibited from considering whether a county, city, or town is compliant with chapter 36.70A RCW when considering applications for broadband funding."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

#### MOTION

Senator Short moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5368.

Senators Short and Kuderer spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Short that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5368.

The motion by Senator Short carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5368 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5368, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5368, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 1; Absent, 0; Excused, 0.

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

Frockt, Gildon, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, 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.

Voting nay: Senator Hasegawa

SECOND SUBSTITUTE SENATE BILL NO. 5368, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

April 8, 2021

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 5121 with the following amendment(s): 5121-S.E AMH PS H1401.1

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9.94A.733 and 2018 c 166 s 1 are each amended to read as follows:

~~(1) (No more than the final six months of the offender's term of confinement may be served in partial confinement as home detention as part of the graduated reentry program developed by the department. However, an offender may not participate in the graduated reentry program under this section unless he or she has served at least twelve months in total confinement in a state correctional facility-))~~ (a) Except as provided in (b) of this subsection, an offender may not participate in the graduated reentry program under this subsection unless he or she has served at least six months in total confinement in a state correctional facility.

(i) An offender subject to (a) of this subsection may serve no more than the final five months of the offender's term of confinement in partial confinement as home detention as part of the graduated reentry program developed by the department.

(ii) Home detention under (a) of this subsection may not be imposed for individuals subject to a deportation order, civil commitment, or the interstate compact for adult offender supervision under RCW 9.94A.745.

(b) For offenders who meet the requirements of (b)(iii) of this subsection, an offender may not participate in the graduated reentry program unless he or she has served at least four months in total confinement in a state correctional facility.

(i) An offender under this subsection (1)(b) may serve no more than the final 18 months of the offender's term of confinement in partial confinement as home detention as part of the graduated reentry program developed by the department.

(ii) Home detention under this subsection (1)(b) may not be imposed for individuals subject to a deportation order or subject to the jurisdiction of the indeterminate sentence review board.

(iii) Home detention under this subsection (1)(b) may not be imposed for offenders currently serving a term of confinement for the following offenses:

(A) Any sex offense;

(B) Any violent offense; or

(C) Any crime against a person offense in accordance with the categorization of crimes against persons outlined in RCW 9.94A.411(2).

(2) The secretary of the department may transfer an offender from a department correctional facility to home detention in the



community if it is determined that the graduated reentry program is an appropriate placement and must assist the offender's transition from confinement to the community.

(3) The department and its officers, agents, and employees are not liable for the acts of offenders participating in the graduated reentry program unless the department or its officers, agents, and employees acted with willful and wanton disregard.

(4) All offenders placed on home detention as part of the graduated reentry program must provide an approved residence and living arrangement prior to transfer to home detention.

(5) While in the community on home detention as part of the graduated reentry program, the department must:

(a) Require the offender to be placed on electronic home monitoring;

(b) Require the offender to participate in programming and treatment that the department shall assign based on an offender's assessed need; and

(c) Assign a community corrections officer who will monitor the offender's compliance with conditions of partial confinement and programming requirements.

(6) The department retains the authority to return any offender serving partial confinement in the graduated reentry program to total confinement for any reason including, but not limited to, the offender's noncompliance with any sentence requirement.

(7) The department may issue rental vouchers for a period not to exceed six months for those transferring to partial confinement under this section if an approved address cannot be obtained without the assistance of a voucher.

(8) In the selection of offenders to participate in the graduated reentry program, and in setting, modifying, and enforcing the requirements of the graduated ~~((release - F:\Journal\2021 Journal\Journal2021\LogDay099\reentry.doc))~~ reentry program, the department is deemed to be performing a quasi-judicial function.

(9) The department shall publish a monthly report on its website with the number of offenders who were transferred during the month to home detention as part of the graduated reentry program. The department shall submit an annual report by December 1st to the appropriate committees of the legislature with the number of offenders who were transferred to home detention as part of the graduated reentry program during the prior year.

**Sec. 2.** RCW 9.94A.728 and 2018 c 166 s 2 are each amended to read as follows:

(1) No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(a) An offender may earn early release time as authorized by RCW 9.94A.729;

(b) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(c)(i) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:

(A) The offender has a medical condition that is serious and is expected to require costly care or treatment;

(B) The offender poses a low risk to the community because he or she is currently physically incapacitated due to age or the medical condition or is expected to be so at the time of release; and

(C) It is expected that granting the extraordinary medical

placement will result in a cost savings to the state.

(ii) An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(iii) The secretary shall require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care, in which case, an alternative type of monitoring shall be utilized. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(iv) The secretary may revoke an extraordinary medical placement under this subsection (1)(c) at any time.

(v) Persistent offenders are not eligible for extraordinary medical placement;

(d) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(e) No more than the final twelve months of the offender's term of confinement may be served in partial confinement for aiding the offender with: Finding work as part of the work release program under chapter 72.65 RCW; or reestablishing himself or herself in the community as part of the parenting program in RCW 9.94A.6551. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

~~(f) ((No more than the final six months))~~ (i) No more than the final five months of the offender's term of confinement may be served in partial confinement as home detention as part of the graduated reentry program developed by the department under RCW 9.94A.733(1)(a);

(ii) For eligible offenders under RCW 9.94A.733(1)(b), after serving at least four months in total confinement in a state correctional facility, an offender may serve no more than the final 18 months of the offender's term of confinement in partial confinement as home detention as part of the graduated reentry program developed by the department;

(g) The governor may pardon any offender;

(h) The department may release an offender from confinement any time within ten days before a release date calculated under this section;

(i) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870;

(j) Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540; and

(k) Any person convicted of one or more crimes committed prior to the person's eighteenth birthday may be released from confinement pursuant to RCW 9.94A.730.

(2) Offenders residing in a juvenile correctional facility placement pursuant to RCW 72.01.410(1)(a) are not subject to the limitations in this section.

**NEW SECTION. Sec. 3.** The changes to restrictions on partial confinement and the graduated reentry program under sections 1 and 2 of this act apply prospectively and retroactively to persons currently serving a sentence in any facility or institution either operated by the state or utilized under contract."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

#### MOTION

Senator Darneille moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5121.

Senators Darneille and Gildon spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Darneille that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5121.

The motion by Senator Darneille carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5121 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5121, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5121, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 28; Nays, 21; Absent, 0; Excused, 0.

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, Ericksen, Fortunato, Gildon, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

ENGROSSED SUBSTITUTE SENATE BILL NO. 5121, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

April 9, 2021

MR. PRESIDENT:

The House passed SECOND SUBSTITUTE SENATE BILL NO. 5195 with the following amendment(s): 5195-S2 AMH DAVI H1524.1

Strike everything after the enacting clause and insert the following:

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

(a) Opioid use disorder is a treatable brain disease from which people recover;

(b) Individuals living with opioid use disorder are at high risk for fatal overdose;

(c) Overdose deaths are preventable with lifesaving opioid overdose reversal medications like naloxone;

(d) Just as individuals with life-threatening allergies should carry an EpiPen, individuals with opioid use disorder should carry opioid overdose reversal medication;

(e) There are 53,000 individuals in Washington enrolled in apple health, Washington's medicaid program, that have a

diagnosis of opioid use disorder and yet there are alarmingly few medicaid claims for opioid overdose reversal medication; and

(f) Most of the opioid overdose reversal medication distributed in Washington is currently paid for with flexible federal and state dollars and distributed in bulk, rather than appropriately billed to a patient's insurance. Those finite flexible funds should instead be used for nonmedicaid eligible expenses or for opioid overdose reversal medication distributed in nonmedicaid eligible settings or to nonmedicaid eligible persons. The state's current methods for acquisition and distribution of opioid overdose reversal medication are not sustainable and insufficient to reach all Washingtonians living with opioid use disorder.

(2) Therefore, it is the intent of the legislature to increase access for all individuals with opioid use disorder to opioid overdose reversal medication so that if they experience an overdose, they will have a second chance. As long as there is breath, there is hope for recovery.

**Sec. 2.** RCW 70.41.480 and 2019 c 314 s 18 are each amended to read as follows:

(1) The legislature finds that high quality, safe, and compassionate health care services for patients of Washington state must be available at all times. The legislature further finds that there is a need for patients being released from hospital emergency departments to maintain access to emergency medications when community or hospital pharmacy services are not available, including medication for opioid overdose reversal and for the treatment for opioid use disorder as appropriate. It is the intent of the legislature to accomplish this objective by allowing practitioners with prescriptive authority to prescribe limited amounts of prepackaged emergency medications to patients being discharged from hospital emergency departments when access to community or outpatient hospital pharmacy services is not otherwise available.

(2) A hospital may allow a practitioner to prescribe prepackaged emergency medications and allow a practitioner or a registered nurse licensed under chapter 18.79 RCW to distribute prepackaged emergency medications to patients being discharged from a hospital emergency department in the following circumstances:

(a) During times when community or outpatient hospital pharmacy services are not available within fifteen miles by road; or

(b) When, in the judgment of the practitioner and consistent with hospital policies and procedures, a patient has no reasonable ability to reach the local community or outpatient pharmacy(~~or~~

~~(c) When, in the judgment of the practitioner and consistent with hospital policies and procedures, a patient is at risk of opioid overdose and the prepackaged emergency medication being distributed is an opioid overdose reversal medication. The labeling requirements of RCW 69.41.050 and 18.64.246 do not apply to opioid overdose reversal medications dispensed, distributed, or delivered pursuant to a prescription, collaborative drug therapy agreement, standing order, or protocol issued in accordance with this section. The individual or entity that dispenses, distributes, or delivers an opioid overdose reversal medication as authorized by this section must ensure that directions for use are provided).~~

(3) A hospital may only allow this practice if: The director of the hospital pharmacy, in collaboration with appropriate hospital medical staff, develops policies and procedures regarding the following:

(a) Development of a list, preapproved by the pharmacy director, of the types of emergency medications to be prepackaged and distributed;

(b) Assurances that emergency medications to be prepackaged

pursuant to this section are prepared by a pharmacist or under the supervision of a pharmacist licensed under chapter 18.64 RCW;

(c) Development of specific criteria under which emergency prepackaged medications may be prescribed and distributed consistent with the limitations of this section;

(d) Assurances that any practitioner authorized to prescribe prepackaged emergency medication or any nurse authorized to distribute prepackaged emergency medication is trained on the types of medications available and the circumstances under which they may be distributed;

(e) Procedures to require practitioners intending to prescribe prepackaged emergency medications pursuant to this section to maintain a valid prescription either in writing or electronically in the patient's records prior to a medication being distributed to a patient;

(f) Establishment of a limit of no more than a forty-eight hour supply of emergency medication as the maximum to be dispensed to a patient, except when community or hospital pharmacy services will not be available within forty-eight hours. In no case may the policy allow a supply exceeding ninety-six hours be dispensed;

(g) Assurances that prepackaged emergency medications will be kept in a secure location in or near the emergency department in such a manner as to preclude the necessity for entry into the pharmacy; and

(h) Assurances that nurses or practitioners will distribute prepackaged emergency medications to patients only after a practitioner has counseled the patient on the medication.

(4) The delivery of a single dose of medication for immediate administration to the patient is not subject to the requirements of this section.

(5) Nothing in this section restricts the authority of a practitioner in a hospital emergency department to distribute opioid overdose reversal medication under RCW 69.41.095.

(6) A practitioner in a hospital emergency department must dispense or distribute opioid overdose reversal medication in compliance with section 3 of this act.

(7) For purposes of this section:

(a) "Emergency medication" means any medication commonly prescribed to emergency department patients, including those drugs, substances or immediate precursors listed in schedules II through V of the uniform controlled substances act, chapter 69.50 RCW, as now or hereafter amended.

(b) "Distribute" means the delivery of a drug or device other than by administering or dispensing.

(c) "Opioid overdose reversal medication" has the same meaning as provided in RCW 69.41.095.

(d) "Practitioner" means any person duly authorized by law or rule in the state of Washington to prescribe drugs as defined in RCW 18.64.011(29).

((d)) (e) "Nurse" means a registered nurse as defined in RCW 18.79.020.

**NEW SECTION. Sec. 3.** A new section is added to chapter 70.41 RCW to read as follows:

(1) A hospital shall provide a person who presents to an emergency department with symptoms of an opioid overdose, opioid use disorder, or other adverse event related to opioid use with opioid overdose reversal medication upon discharge, unless the treating practitioner determines in their clinical and professional judgment that dispensing or distributing opioid overdose reversal medication is not appropriate or the practitioner has confirmed that the patient already has opioid overdose reversal medication. If the hospital dispenses or distributes opioid overdose reversal medication it must provide directions for use.

(2) The opioid overdose reversal medication may be dispensed with technology used to dispense medications.

(3) A person who is provided opioid overdose reversal medication under this section must be provided information and resources about medication for opioid use disorder and harm reduction strategies and services which may be available, such as substance use disorder treatment services and substance use disorder peer counselors. This information should be available in all languages relevant to the communities that the hospital serves.

(4) The labeling requirements of RCW 69.41.050 and 18.64.246 do not apply to opioid overdose reversal medications dispensed or distributed in accordance with this section.

(5) Until the opioid overdose reversal medication bulk purchasing and distribution program established in section 7 of this act is operational:

(a) If the patient is enrolled in a medical assistance program under chapter 74.09 RCW, the hospital must bill the patient's medicaid benefit for the patient's opioid overdose reversal medication utilizing the appropriate billing codes established by the health care authority. This billing must be separate from and in addition to the payment for the other services provided during the hospital visit.

(b) If the patient has available health insurance coverage other than medical assistance under chapter 74.09 RCW, the hospital must bill the patient's health plan for the cost of the opioid overdose reversal medication.

(c) For patients who are not enrolled in medical assistance and do not have any other available insurance coverage, the hospital must bill the health care authority for the cost of the patient's opioid overdose reversal medication.

(6) This section does not prohibit a hospital from dispensing opioid overdose reversal medication to a patient at no cost to the patient out of the hospital's prepurchased supply.

(7) Nothing in this section prohibits or modifies a hospital's ability or responsibility to bill a patient's health insurance or to provide financial assistance as required by state or federal law.

(8) A hospital, its employees, and its practitioners are immune from suit in any action, civil or criminal, or from professional or other disciplinary action, for action or inaction in compliance with this section.

(9) For purposes of this section:

(a) "Opioid overdose reversal medication" has the meaning provided in RCW 69.41.095.

(b) "Practitioner" has the meaning provided in RCW 18.64.011.

**NEW SECTION. Sec. 4.** A new section is added to chapter 71.24 RCW to read as follows:

(1) For any client presenting with symptoms of an opioid use disorder, or who reports recent use of opioids outside legal authority, all licensed or certified behavioral health agencies that provide individuals treatment for mental health or substance use disorder, withdrawal management, secure withdrawal management, evaluation and treatment, or opioid treatment programs must during the client's intake, discharge, or treatment plan review, as appropriate:

(a) Inform the client about opioid overdose reversal medication and ask whether the client has opioid overdose reversal medication; and

(b) If a client does not possess opioid overdose reversal medication, unless the behavioral health provider determines using clinical and professional judgment that opioid overdose reversal medication is not appropriate, the behavioral health provider must:

(i) Prescribe the client opioid overdose reversal medication or

utilize the statewide naloxone standing order; and

(ii) Assist the client in directly obtaining opioid overdose reversal medication as soon as practical by:

(A) Directly dispensing the opioid overdose reversal medication, if authorized by state law;

(B) Partnering with a pharmacy to obtain the opioid overdose reversal medication on the client's behalf and distributing the opioid overdose reversal medication to the client;

(C) Assisting the client in utilizing a mail order pharmacy or pharmacy that mails prescription drugs directly to the behavioral health agency or client and distributing the opioid overdose reversal medication to the client, if necessary;

(D) Obtaining and distributing opioid overdose reversal medication through the bulk purchasing and distribution program established in section 7 of this act; or

(E) Using any other resources or means authorized by state law to provide opioid overdose reversal medication.

(2) Until the opioid overdose reversal medication bulk purchasing and distribution program established in section 7 of this act is operational, if a behavioral health agency listed in subsection (1) of this section dispenses, distributes, or otherwise assists the client in directly obtaining the opioid overdose reversal medication such that the agency is the billing entity, the behavioral health agency must:

(a) For clients enrolled in medical assistance under chapter 74.09 RCW, bill the client's medicaid benefit for the client's opioid overdose reversal medication utilizing the appropriate billing codes established by the health care authority.

(b) For clients with available health insurance coverage other than medical assistance under chapter 74.09 RCW, bill the client's health plan for the cost of the opioid overdose reversal medication.

(c) For clients who are not enrolled in medical assistance under chapter 74.09 RCW and do not have any other available health insurance coverage, bill the health care authority for the cost of the client's opioid overdose reversal medication.

(3) A pharmacy that dispenses opioid overdose reversal medication through a partnership or relationship with a behavioral health agency as described in subsection (1) of this section must bill the health care authority for the cost of the client's opioid overdose reversal medication for clients that are not enrolled in medical assistance under chapter 74.09 RCW and do not have any other available health insurance coverage.

(4) The labeling requirements of RCW 69.41.050 and 18.64.246 do not apply to opioid overdose reversal medication dispensed or delivered in accordance with this section.

(5) A person who is provided opioid overdose reversal medication under this section must be provided information and resources about medication for opioid use disorder and harm reduction strategies and services which may be available, such as substance use disorder treatment services and substance use disorder peer counselors. This information should be available in all languages relevant to the communities that the behavioral health agency serves.

(6) The individual or entity that dispenses, distributes, or delivers an opioid overdose reversal medication in accordance with this section shall ensure that the directions for use are provided.

(7) Actions taken in compliance with subsection (1) of this section by an entity that provides only mental health treatment may not be construed as the entity holding itself out as providing or in fact providing substance use disorder diagnosis, treatment, or referral for treatment for purposes of state or federal law.

(8) A behavioral health agency, its employees, and providers are immune from suit in any action, civil or criminal, or from

professional or other disciplinary action, for action or inaction in compliance with this section.

(9) For purposes of this section, "opioid overdose reversal medication" has the meaning provided in RCW 69.41.095.

**NEW SECTION. Sec. 5.** A new section is added to chapter 74.09 RCW to read as follows:

Until the opioid overdose reversal medication bulk purchasing and distribution program established in section 7 of this act is operational:

(1) Upon initiation or renewal of a contract with the authority to administer a medicaid managed care plan, a managed care organization must reimburse a hospital or behavioral health agency for dispensing or distributing opioid overdose reversal medication to a covered person under sections 3 and 4 of this act.

(2) If the person is not enrolled in a medicaid managed care plan and does not have any other available insurance coverage, the authority must reimburse a hospital, behavioral health agency, or pharmacy for dispensing or distributing opioid overdose reversal medication under sections 3 and 4 of this act.

**NEW SECTION. Sec. 6.** A new section is added to chapter 74.09 RCW to read as follows:

(1) The authority, in consultation with the department of health, the office of the insurance commissioner, and the addictions, drug, and alcohol institute at the University of Washington, shall provide technical assistance to hospitals and licensed or certified, behavioral health agencies to assist these entities, practitioners, and providers in complying with sections 3 and 4 of this act. The technical assistance provided to behavioral health agencies must include:

(a) Training nonmedical providers on distributing and providing client education and directions for use of opioid overdose reversal medication;

(b) Providing written guidance for billing for opioid overdose reversal medication; and

(c) Analyzing the cost of additional behavioral health agency staff time to carry out the activities in section 4 of this act, and providing written guidance no later than January 1, 2022, for funding and billing direct service activities related to assisting clients to obtain opioid overdose reversal medication.

(2) The authority shall develop written materials in all relevant languages for each hospital and applicable licensed or certified behavioral health agency to comply with sections 3 and 4 of this act, including directions for the use of opioid overdose reversal medication, and provide them to all hospitals and behavioral health agencies by January 1, 2022.

**NEW SECTION. Sec. 7.** A new section is added to chapter 70.14 RCW to read as follows:

(1) As soon as reasonably practicable, the health care authority shall establish a bulk purchasing and distribution program for opioid overdose reversal medication. The health care authority is authorized to:

(a) Purchase or enter into contracts as necessary to purchase and distribute opioid overdose reversal medication, collect an assessment, and administer the program;

(b) Bill, charge, and receive payment from health carriers, managed health care systems, and to the extent that any self-insured health plans choose to participate, self-insured health plans; and

(c) Perform any other functions as may be necessary or proper to establish and administer the program.

(2) To establish and administer the opioid overdose reversal medication bulk purchasing and distribution program, the health care authority may adopt rules providing the following:

(a) A dosage-based assessment and formula to determine the assessment for each opioid overdose reversal medication

provided to an individual through the program that includes administrative costs of the program;

(b) The mechanism, requirements, and timeline for health carriers, managed health care systems, and self-insured plans to pay the dosage-based assessments;

(c) The types of health care facilities, health care providers, or other entities that are required to or are permitted to participate in the program;

(d) The billing procedures for any participating health care facility, health care provider, or other entity participating in the program; and

(e) Any other rules necessary to establish, implement, or administer the program.

(3) The following agencies, health plans, and insurers must participate in the bulk purchasing and distribution program:

(a) Health carriers;

(b) Managed health care systems administering a medicaid managed care plan; and

(c) The health care authority for purposes of:

(i) Health plans offered to public employees and their dependents;

(ii) Individuals enrolled in medical assistance under chapter 74.09 RCW that are not enrolled in a managed care plan; and

(iii) Uninsured individuals.

(4) The health care authority may establish an interest charge for late payment of any assessment under this section. The health care authority shall assess a civil penalty against any health carrier, managed health care system, or self-insured health plan that fails to pay an assessment within three months of billing. The civil penalty under this subsection is 150 percent of such assessment. The health care authority is authorized to file liens and seek judgment to recover amounts in arrears and civil penalties, and recover reasonable collection costs, including reasonable attorneys' fees and costs. Civil penalties so levied must be deposited in the opioid overdose reversal medication account created in section 8 of this act.

(5) The health care authority in coordination with the office of the insurance commissioner may recommend to the appropriate committees of the legislature the termination of the bulk purchasing and distribution mechanism for opioid overdose reversal medication if it finds that the original intent of its formation and operation has not been achieved.

(6) By January 1, 2022, the health care authority shall submit a report to the legislature on the progress towards establishing the bulk purchasing and distribution program. The health care authority shall submit an updated report on the progress towards establishing the bulk purchasing and distribution program by January 1, 2023.

(7) By July 1, 2025, the health care authority shall submit recommendations to the appropriate committees of the legislature on whether and how the opioid overdose reversal medication bulk purchasing and distribution program may be expanded to include other prescription drugs.

(8) "Opioid overdose reversal medication" has the same meaning as provided in RCW 69.41.095.

**NEW SECTION. Sec. 8.** A new section is added to chapter 70.14 RCW to read as follows:

The opioid overdose reversal medication account is created in the custody of the state treasurer. All receipts from collections under section 7 of this act must be deposited into the account. Expenditures from the account may be used only for the operation and administration of the opioid overdose reversal medication bulk purchasing and distribution program identified in section 7 of this act. Only the director of the health care authority or the

director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec. 9.** RCW 39.26.125 and 2012 c 224 s 14 are each amended to read as follows:

All contracts must be entered into pursuant to competitive solicitation, except for:

(1) Emergency contracts;

(2) Sole source contracts that comply with the provisions of RCW 39.26.140;

(3) Direct buy purchases, as designated by the director. The director shall establish policies to define criteria for direct buy purchases. These criteria may be adjusted to accommodate special market conditions and to promote market diversity for the benefit of the citizens of the state of Washington;

(4) Purchases involving special facilities, services, or market conditions, in which instances of direct negotiation is in the best interest of the state;

(5) Purchases from master contracts established by the department or an agency authorized by the department;

(6) Client services contracts;

(7) Other specific contracts or classes or groups of contracts exempted from the competitive solicitation process when the director determines that a competitive solicitation process is not appropriate or cost-effective;

(8) Off-contract purchases of Washington grown food when such food is not available from Washington sources through an existing contract. However, Washington grown food purchased under this subsection must be of an equivalent or better quality than similar food available through the contract and must be able to be paid from the agency's existing budget. This requirement also applies to purchases and contracts for purchases executed by state agencies, including institutions of higher education as defined in RCW 28B.10.016, under delegated authority granted in accordance with this chapter or under RCW 28B.10.029;

(9) Contracts awarded to companies that furnish a service where the tariff is established by the utilities and transportation commission or other public entity;

(10) Intergovernmental agreements awarded to any governmental entity, whether federal, state, or local and any department, division, or subdivision thereof;

(11) Contracts for services that are necessary to the conduct of collaborative research if the use of a specific contractor is mandated by the funding source as a condition of granting funds;

(12) Contracts for architectural and engineering services as defined in RCW 39.80.020, which shall be entered into under chapter 39.80 RCW;

(13) Contracts for the employment of expert witnesses for the purposes of litigation; ~~((and))~~

(14) Contracts for bank supervision authorized under RCW ~~((30.38.040))~~ 30A.38.040; and

(15) Contracts for the purchase of opioid overdose reversal medication authorized under section 7 of this act.

**NEW SECTION. Sec. 10.** A new section is added to chapter 41.05 RCW to read as follows:

A health plan offered to public employees and their covered dependents under this chapter that is issued or renewed on or after January 1, 2023, must participate in the bulk purchasing and distribution program for opioid overdose reversal medication established in section 7 of this act once the program is operational.

**NEW SECTION. Sec. 11.** A new section is added to chapter 48.43 RCW to read as follows:

For health plans issued or renewed on or after January 1, 2023, health carriers must participate in the opioid overdose reversal

medication bulk purchasing and distribution program established in section 7 of this act once the program is operational. A health plan may not impose enrollee cost sharing related to opioid overdose reversal medication provided through the bulk purchasing and distribution program established in section 7 of this act.

**NEW SECTION. Sec. 12.** A new section is added to chapter 74.09 RCW to read as follows:

(1) Upon initiation or renewal of a contract with the authority to administer a medicaid managed care plan, a managed health care system must participate in the opioid overdose reversal medication bulk purchasing and distribution program established in section 7 of this act once the program is operational.

(2) The health care authority must participate in the opioid overdose reversal medication bulk purchasing and distribution program established in section 7 of this act once the program is operational for purposes of individuals enrolled in medical assistance under this chapter that are not enrolled in a managed care plan and are uninsured individuals.

**NEW SECTION. Sec. 13.** (1) The health care authority may adopt rules necessary to implement sections 7 through 12 of this act.

(2) The insurance commissioner may adopt rules necessary to implement sections 7 and 11 of this act.

**NEW SECTION. Sec. 14.** Sections 2 through 4 of this act take effect January 1, 2022."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

#### MOTION

Senator Liias moved that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5195.

Senators Liias and Wagoner spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Liias that the Senate concur in the House amendment(s) to Second Substitute Senate Bill No. 5195.

The motion by Senator Liias carried and the Senate concurred in the House amendment(s) to Second Substitute Senate Bill No. 5195 by voice vote.

The President declared the question before the Senate to be the final passage of Second Substitute Senate Bill No. 5195, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Second Substitute Senate Bill No. 5195, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

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.

SECOND SUBSTITUTE SENATE BILL NO. 5195, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

April 8, 2021

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5163 with the following amendment(s): 5163-S2.E AMH ENGR H1371.E

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that in 2008, the sex offender policy board was established to provide a more coordinated and integrated response to sex offender management in Washington state. The legislature further finds that in March 2020, the board was convened to review policies and practices related to sexually violent predators. The legislature recognizes that the board released a report and a series of recommendations regarding improvement to the current practice in order to ensure a successful transition for individuals convicted of sex offenses from total confinement back into the community. The legislature resolves to increase community safety through successful transition by enacting the recommendations of the board and other related policies.

**Sec. 2.** RCW 71.09.020 and 2015 c 278 s 2 are each reenacted and amended to read as follows:

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

(1) "Department" means the department of social and health services.

(2) "Fair share principles" and "fair share principles of release" means that each county has adequate options for conditional release housing placements in a number generally equivalent to the number of residents from that county who are subject to total confinement pursuant to this chapter.

(3) "Health care facility" means any hospital, hospice care center, licensed or certified health care facility, health maintenance organization regulated under chapter 48.46 RCW, federally qualified health maintenance organization, federally approved renal dialysis center or facility, or federally approved blood bank.

~~((3))~~ (4) "Health care practitioner" means an individual or firm licensed or certified to engage actively in a regulated health profession.

~~((4))~~ (5) "Health care services" means those services provided by health professionals licensed pursuant to RCW 18.120.020(4).

~~((5))~~ (6) "Health profession" means those licensed or regulated professions set forth in RCW 18.120.020(4).

~~((6))~~ (7) "Less restrictive alternative" means court-ordered treatment in a setting less restrictive than total confinement which satisfies the conditions set forth in RCW 71.09.092. A less restrictive alternative may not include placement in the community protection program as pursuant to RCW 71A.12.230.

~~((7))~~ (8) "Likely to engage in predatory acts of sexual violence if not confined in a secure facility" means that the person more probably than not will engage in such acts if released unconditionally from detention on the sexually violent predator petition. Such likelihood must be evidenced by a recent overt act if the person is not totally confined at the time the petition is filed under RCW 71.09.030.

~~((8))~~ (9) "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal

sexual acts in a degree constituting such person a menace to the health and safety of others.

~~((99))~~ (10) "Personality disorder" means an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has onset in adolescence or early adulthood, is stable over time and leads to distress or impairment. Purported evidence of a personality disorder must be supported by testimony of a licensed forensic psychologist or psychiatrist.

~~((40))~~ (11) "Predatory" means acts directed towards: (a) Strangers; (b) individuals with whom a relationship has been established or promoted for the primary purpose of victimization; or (c) persons of casual acquaintance with whom no substantial personal relationship exists.

~~((41))~~ (12) "Prosecuting agency" means the prosecuting attorney of the county where the person was convicted or charged or the attorney general if requested by the prosecuting attorney, as provided in RCW 71.09.030.

~~((42))~~ (13) "Recent overt act" means any act, threat, or combination thereof that has either caused harm of a sexually violent nature or creates a reasonable apprehension of such harm in the mind of an objective person who knows of the history and mental condition of the person engaging in the act or behaviors.

~~((43))~~ (14) "Risk potential activity" or "risk potential facility" means an activity or facility that provides a higher incidence of risk to the public from persons conditionally released from the special commitment center. Risk potential activities and facilities include: Public and private schools, school bus stops, licensed day care and licensed preschool facilities, public parks, publicly dedicated trails, sports fields, playgrounds, recreational and community centers, churches, synagogues, temples, mosques, public libraries, public and private youth camps, and others identified by the department following the hearings on a potential site required in RCW 71.09.315. For purposes of this chapter, "school bus stops" does not include bus stops established primarily for public transit.

~~((44))~~ (15) "Secretary" means the secretary of social and health services or the secretary's designee.

~~((45))~~ (16) "Secure community transition facility" means a residential facility for persons civilly committed and conditionally released to a less restrictive alternative under this chapter. A secure community transition facility has supervision and security, and either provides or ensures the provision of sex offender treatment services. Secure community transition facilities include but are not limited to the facility established pursuant to RCW 71.09.250(1)(a)(i) and any community-based facilities established under this chapter and operated by the secretary or under contract with the secretary.

~~((46))~~ (17) "Secure facility" means a residential facility for persons civilly confined under the provisions of this chapter that includes security measures sufficient to protect the community. Such facilities include total confinement facilities, secure community transition facilities, and any residence used as a court-ordered placement under RCW 71.09.096.

~~((47))~~ (18) "Sexually violent offense" means an act committed on, before, or after July 1, 1990, that is: (a) An act defined in Title 9A RCW as rape in the first degree, rape in the second degree by forcible compulsion, rape of a child in the first or second degree, statutory rape in the first or second degree, indecent liberties by forcible compulsion, indecent liberties against a child under age fourteen, incest against a child under age fourteen, or child molestation in the first or second degree; (b) a felony offense in effect at any time prior to July 1, 1990, that is comparable to a sexually violent offense as defined in (a) of this

subsection, or any federal or out-of-state conviction for a felony offense that under the laws of this state would be a sexually violent offense as defined in this subsection; (c) an act of murder in the first or second degree, assault in the first or second degree, assault of a child in the first or second degree, kidnapping in the first or second degree, burglary in the first degree, residential burglary, or unlawful imprisonment, which act, either at the time of sentencing for the offense or subsequently during civil commitment proceedings pursuant to this chapter, has been determined beyond a reasonable doubt to have been sexually motivated, as that term is defined in RCW 9.94A.030; or (d) an act as described in chapter 9A.28 RCW, that is an attempt, criminal solicitation, or criminal conspiracy to commit one of the felonies designated in (a), (b), or (c) of this subsection.

~~((48))~~ (19) "Sexually violent predator" means any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence if not confined in a secure facility.

~~((49))~~ (20) "Total confinement facility" means a secure facility that provides supervision and sex offender treatment services in a total confinement setting. Total confinement facilities include the special commitment center and any similar facility designated as a total confinement facility by the secretary.

~~((20))~~ (21) "Treatment" means the sex offender specific treatment program at the special commitment center or a specific course of sex offender treatment pursuant to RCW 71.09.092 (1) and (2).

**Sec. 3.** RCW 71.09.080 and 2012 c 257 s 6 are each amended to read as follows:

(1) Any person subjected to restricted liberty as a sexually violent predator pursuant to this chapter shall not forfeit any legal right or suffer any legal disability as a consequence of any actions taken or orders made, other than as specifically provided in this chapter, or as otherwise authorized by law.

(2)(a) Any person committed or detained pursuant to this chapter shall be prohibited from possessing or accessing a personal computer if the resident's individualized treatment plan states that access to a computer is harmful to bringing about a positive response to a specific and certain phase or course of treatment.

(b) A person who is prohibited from possessing or accessing a personal computer under (a) of this subsection shall be permitted to access a limited functioning personal computer capable of word processing and limited data storage on the computer only that does not have: (i) Internet access capability; (ii) an optical drive, external drive, universal serial bus port, or similar drive capability; or (iii) the capability to display photographs, images, videos, or motion pictures, or similar display capability from any drive or port capability listed under (b)(ii) of this subsection.

(3) Any person committed pursuant to this chapter has the right to adequate care ~~((and))~~, individualized treatment, and the development of an ongoing, clinically appropriate discharge plan as part of the treatment process. The department of social and health services shall keep records detailing all medical, expert, and professional care and treatment received by a committed person, and shall keep copies of all reports of periodic examinations made pursuant to this chapter. All such records and reports shall be made available upon request only to: The committed person, his or her attorney, the prosecuting agency, the court, the protection and advocacy agency, or another expert or professional person who, upon proper showing, demonstrates a need for access to such records.

(4) The right to the development of a discharge plan under

subsection (3) of this section does not guarantee that any particular person will be determined appropriate for discharge at any particular time. Nothing in this section precludes the department from expressing professional judgment regarding the suitability of discharge for the protection of a resident's safety or community safety. Individualized and ongoing discharge planning requires, at a minimum, and as part of a person's treatment plan, the following are addressed based on information known to the department and in accordance with policies developed by the department to implement this subsection:

(a) The resident's known physical health, functioning, and any need for health aid devices;

(b) The resident's known intellectual or cognitive level of functioning and need for specialized programming;

(c) The resident's known history of substance use and abuse;

(d) The resident's known history of risky or impulsive behaviors, criminogenic needs, and treatment interventions to address them;

(e) The resident's known ability to perform life skills and activities of daily living independently and the resident's known need for any disability accommodations;

(f) A summary of the known community services and supports the resident needs for a safe life in the community and the type of providers of such services and support; and

(g) A plan to mitigate the needs identified in this subsection that also addresses ways to develop or increase social supports, recreation opportunities, gainful employment, and if applicable, spiritual opportunities.

(5) At the time a person is taken into custody or transferred into a facility pursuant to a petition under this chapter, the professional person in charge of such facility or his or her designee shall take reasonable precautions to inventory and safeguard the personal property of the persons detained or transferred. A copy of the inventory, signed by the staff member making it, shall be given to the person detained and shall, in addition, be open to inspection to any responsible relative, subject to limitations, if any, specifically imposed by the detained person. For purposes of this subsection, "responsible relative" includes the guardian, conservator, attorney, spouse, parent, adult child, or adult brother or sister of the person. The facility shall not disclose the contents of the inventory to any other person without consent of the patient or order of the court.

((5)) (6) Nothing in this chapter prohibits a person presently committed from exercising a right presently available to him or her for the purpose of obtaining release from confinement, including the right to petition for a writ of habeas corpus.

((6)) (7) No indigent person may be conditionally released or unconditionally discharged under this chapter without suitable clothing, and the secretary shall furnish the person with such sum of money as is required by RCW 72.02.100 for persons without ample funds who are released from correctional institutions. As funds are available, the secretary may provide payment to the indigent persons conditionally released pursuant to this chapter consistent with the optional provisions of RCW 72.02.100 and 72.02.110, and may adopt rules to do so.

((7)) (8) If a civil commitment petition is dismissed, or a trier of fact determines that a person does not meet civil commitment criteria, the person shall be released within twenty-four hours of service of the release order on the superintendent of the special commitment center, or later by agreement of the person who is the subject of the petition.

**Sec. 4.** RCW 71.09.090 and 2018 c 131 s 2 are each amended to read as follows:

(1)(a) If the secretary determines that the person's condition has so changed that ((either: (a) The)) the person no longer meets the

definition of a sexually violent predator((; or (b) conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that adequately protect the community)), the secretary shall authorize the person to petition the court for ((conditional release to a less restrictive alternative or)) unconditional discharge. The petition shall be filed with the court and served upon the prosecuting agency responsible for the initial commitment. The court, upon receipt of the petition for ((conditional release to a less restrictive alternative or)) unconditional discharge, shall within ((forty five)) 45 days order a hearing.

(b) If the secretary determines that the person's condition has so changed that conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that adequately protect the community, then the secretary shall authorize the person to petition the court for conditional release to a less restrictive alternative. Upon receipt of the petition, the court shall order the department to identify a less restrictive alternative placement that satisfies RCW 71.09.092 (1) through (4). Once identified, notice of the placement shall be filed with the court and served upon: The prosecuting agency responsible for the initial commitment; any person or persons identified in RCW 71.09.140(2)(a) who have opted to receive notifications under this chapter; and the person and his or her counsel. If the department cannot identify a placement available to the person that satisfies RCW 71.09.092 (1) through (4) within 90 days, the department shall provide a written certification to the court, the prosecuting agency responsible for the initial commitment, and the person and his or her counsel, detailing the efforts of the department to identify a qualifying placement. Upon the department's certification, the person may propose a placement that satisfies RCW 71.09.092 (1) through (3). After a less restrictive placement has been proposed by either the department or the person, the court shall within 45 days order a hearing.

(2)(a) Nothing contained in this chapter shall prohibit the person from otherwise petitioning the court for conditional release to a less restrictive alternative or unconditional discharge without the secretary's approval. The secretary shall provide the committed person with an annual written notice of the person's right to petition the court for conditional release to a less restrictive alternative or unconditional discharge over the secretary's objection. The notice shall contain a waiver of rights. The secretary shall file the notice and waiver form and the annual report with the court. If the person does not affirmatively waive the right to petition, the court shall set a show cause hearing to determine whether probable cause exists to warrant a hearing on whether the person's condition has so changed that: (i) He or she no longer meets the definition of a sexually violent predator; or (ii) conditional release to a proposed less restrictive alternative would be in the best interest of the person and conditions can be imposed that would adequately protect the community.

(b)(i) The committed person shall have a right to have an attorney represent him or her at the show cause hearing, which may be conducted solely on the basis of affidavits or declarations, but the person is not entitled to be present at the show cause hearing. At the show cause hearing, the prosecuting agency shall present prima facie evidence establishing: (A) That the committed person continues to meet the definition of a sexually violent predator; and (B) that a less restrictive alternative is not in the best interest of the person and conditions cannot be imposed that adequately protect the community.

(ii)(A) If the state produces prima facie evidence that the committed person continues to be a sexually violent predator, then the state's burden under (b)(i)(A) of this subsection is met and an unconditional release trial may not be ordered unless the



committed person produces evidence satisfying: Subsection (4)(a) of this section; and subsection (4)(b) (i) or (ii) of this section.

(B) If the state produces prima facie evidence that a less restrictive alternative is not appropriate for the committed person, then the state's burden under (b)(i)(B) of this subsection is met, and a conditional release trial may not be ordered unless the committed person:

(I) Produces evidence satisfying: Subsection (4)(a) of this section; and subsection (4)(b) (i) or (ii) of this section; and

(II) Presents the court with a specific placement satisfying the requirements of RCW 71.09.092.

(iii) In making the showing required under (b)(i) of this subsection, the state may rely exclusively upon the annual report prepared pursuant to RCW 71.09.070. The committed person may present responsive affidavits or declarations to which the state may reply.

(c)(i) If the court at the show cause hearing determines that either: ~~((A)) (A) The state has failed to present prima facie evidence that the committed person continues to meet the definition of a sexually violent predator (and that no proposed less restrictive alternative is in the best interest of the person and conditions cannot be imposed that would adequately protect the community);~~ or ~~((B)) (B) probable cause exists to believe that the person's condition has so changed that (A) The person no longer meets the definition of a sexually violent predator (or (B) release to a proposed less restrictive alternative would be in the best interest of the person and conditions can be imposed that would adequately protect the community),~~ then the court shall set a hearing on ~~(either or both issues)~~ the issue of unconditional discharge.

(ii) If the court at the show cause hearing determines that the state has failed to present prima facie evidence that no proposed less restrictive alternative is in the best interest of the person and conditions cannot be imposed that would adequately protect the community, the court shall enter an order directing the department to propose a less restrictive alternative that satisfies RCW 71.09.092 (1) through (4). If the department cannot identify a placement available to the person that satisfies RCW 71.09.092 (1) through (4) within 90 days, the department shall provide a written certification to the court, the prosecuting agency responsible for the initial commitment, and the person and his or her counsel, detailing the efforts of the department to identify a qualifying placement. Upon the department's certification, the person may propose a placement that satisfies RCW 71.09.092 (1) through (3). After a less restrictive placement has been proposed by either the department or the person, the court shall set a hearing on the issue of conditional release.

(iii) If the court at the show cause hearing determines, based on the evidence submitted by the person, that probable cause exists to believe that release to a less restrictive alternative would be in the best interest of the person and conditions can be imposed that would adequately protect the community, the court shall set a hearing on the issue of conditional release if the person presents the court with a specific placement that satisfies the requirements of RCW 71.09.092.

(d) If the court has not previously considered the issue of release to a less restrictive alternative, either through a trial on the merits or through the procedures set forth in RCW 71.09.094(1), or if an immediately preceding less restrictive alternative was revoked due to the loss of adequate housing or treatment for reasons other than noncompliance with housing requirements, treatment, or other conditions of the less restrictive alternative, the court shall consider whether release to a less restrictive

alternative would be in the best interests of the person and conditions can be imposed that would adequately protect the community, without considering whether the person's condition has changed. ~~((The court may not find probable cause for a trial addressing less restrictive alternatives unless a proposed less restrictive alternative placement meeting the conditions of RCW 71.09.092 is presented to the court at the show cause hearing.))~~

(3)(a) At the hearing resulting from subsection (1) or (2) of this section, the committed person shall be entitled to be present and to the benefit of all constitutional protections that were afforded to the person at the initial commitment proceeding. The prosecuting agency shall represent the state and shall have a right to a jury trial and to have the committed person evaluated by experts chosen by the state. The prosecuting agency shall have a right to a current evaluation of the person by experts chosen by the state. The judge may require the person to complete any or all of the following procedures or tests if requested by the evaluator: (i) A clinical interview; (ii) psychological testing; (iii) plethysmograph testing; and (iv) polygraph testing. The judge may order the person to complete any other procedures and tests relevant to the evaluation. The state is responsible for the costs of the evaluation. The committed person shall also have the right to a jury trial and the right to have experts evaluate him or her on his or her behalf and the court shall appoint an expert if the person is indigent and requests an appointment.

(b) Whenever any indigent person is subjected to an evaluation under (a) of this subsection, the office of public defense is responsible for the cost of one expert or professional person conducting an evaluation on the person's behalf. When the person wishes to be evaluated by a qualified expert or professional person of his or her own choice, such expert or professional person must be permitted to have reasonable access to the person for the purpose of such evaluation, as well as to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court shall, upon the person's request, assist the person in obtaining an expert or professional person to perform an evaluation or participate in the hearing on the person's behalf. Nothing in this chapter precludes the person from paying for additional expert services at his or her own expense.

(c) If the issue at the hearing is whether the person should be unconditionally discharged, the burden of proof shall be upon the state to prove beyond a reasonable doubt that the committed person's condition remains such that the person continues to meet the definition of a sexually violent predator. Evidence of the prior commitment trial and disposition is admissible. The recommitment proceeding shall otherwise proceed as set forth in RCW 71.09.050 and 71.09.060.

(d) If the issue at the hearing is whether the person should be conditionally released to a less restrictive alternative, the burden of proof at the hearing shall be upon the state to prove beyond a reasonable doubt that conditional release to any proposed less restrictive alternative either: (i) Is not in the best interest of the committed person; or (ii) does not include conditions that would adequately protect the community. Evidence of the prior commitment trial and disposition is admissible.

(4)(a) Probable cause exists to believe that a person's condition has "so changed," under subsection (2) of this section, only when evidence exists, since the person's last commitment trial, or less restrictive alternative revocation proceeding, of a substantial change in the person's physical or mental condition such that the person either no longer meets the definition of a sexually violent predator or that a conditional release to a less restrictive alternative is in the person's best interest and conditions can be imposed to adequately protect the community.

(b) A new trial proceeding under subsection (3) of this section may be ordered, or a trial proceeding may be held, only when there is current evidence from a licensed professional of one of the following and the evidence presents a change in condition since the person's last commitment trial proceeding:

(i) An identified physiological change to the person, such as paralysis, stroke, or dementia, that renders the committed person unable to commit a sexually violent act and this change is permanent; or

(ii) A change in the person's mental condition brought about through positive response to continuing participation in treatment which indicates that the person meets the standard for conditional release to a less restrictive alternative or that the person would be safe to be at large if unconditionally released from commitment.

(c) For purposes of this section, a change in a single demographic factor, without more, does not establish probable cause for a new trial proceeding under subsection (3) of this section. As used in this section, a single demographic factor includes, but is not limited to, a change in the chronological age, marital status, or gender of the committed person.

(5) When the court enters an order for unconditional discharge of a person from an immediately preceding less restrictive placement, the court must direct the clerk to transmit a copy of the order to the department of corrections for discharge process and termination of cause.

(6) The jurisdiction of the court over a person civilly committed pursuant to this chapter continues until such time as the person is unconditionally discharged.

~~((6))~~ (7) During any period of confinement pursuant to a criminal conviction, or for any period of detention awaiting trial on criminal charges, this section is suspended.

**Sec. 5.** RCW 71.09.092 and 2009 c 409 s 9 are each amended to read as follows:

Before the court may enter an order directing conditional release to a less restrictive alternative, it must find the following:

(1) The person will be treated by a treatment provider who is qualified to provide such treatment in the state of Washington under chapter 18.155 RCW; (2) the treatment provider has presented a specific course of treatment and has agreed to assume responsibility for such treatment and will report progress to the court on a regular basis, and will report violations immediately to the court, the prosecutor, the supervising community corrections officer, and the superintendent of the special commitment center; (3) housing exists in Washington that complies with distance restrictions, is sufficiently secure to protect the community, and the person or agency providing housing to the conditionally released person has agreed in writing to accept the person, to provide the level of security required by the court, and immediately to report to the court, the prosecutor, the supervising community corrections officer, and the superintendent of the special commitment center if the person leaves the housing to which he or she has been assigned without authorization; (4) if the department has proposed housing that is outside of the county of commitment, a documented effort was made by the department to ensure that placement is consistent with fair share principles of release; (5) the person is willing to comply with the treatment provider and all requirements imposed by the treatment provider and by the court; and ~~((5))~~ (6) the person will be under the supervision of the department of corrections and is willing to comply with supervision requirements imposed by the department of corrections.

**Sec. 6.** RCW 71.09.096 and 2015 c 278 s 3 are each amended to read as follows:

(1) If the court or jury determines that conditional release to a less restrictive alternative is in the best interest of the person and

includes conditions that would adequately protect the community, and the court determines that the minimum conditions set forth in RCW 71.09.092 and in this section are met, the court shall enter judgment and direct a conditional release.

(2) The court shall impose any additional conditions necessary to ensure compliance with treatment and to protect the community. If the court finds that conditions do not exist that will both ensure the person's compliance with treatment and protect the community, then the person shall be remanded to the custody of the department of social and health services for control, care, and treatment in a secure facility as designated in RCW 71.09.060(1).

(3) If the service provider designated by the court to provide inpatient or outpatient treatment or to monitor or supervise any other terms and conditions of a person's placement in a less restrictive alternative is other than the department of social and health services or the department of corrections, then the service provider so designated must agree in writing to provide such treatment, monitoring, or supervision in accord with this section. Any person providing or agreeing to provide treatment, monitoring, or supervision services pursuant to this chapter may be compelled to testify and any privilege with regard to such person's testimony is deemed waived.

(4)(a) Prior to authorizing any release to a less restrictive alternative, the court shall impose such conditions upon the person as are necessary to ensure the safety of the community. In imposing conditions, the court must impose a restriction on the proximity of the person's residence to public or private schools providing instruction to kindergarten or any grades one through 12 in accordance with RCW 72.09.340. Courts shall require a minimum distance restriction of 500 feet on the proximity of the person's residence to child care facilities and public or private schools providing instruction to kindergarten or any grades one through 12. The court shall order the department of corrections to investigate the less restrictive alternative and, within 60 days of the order to investigate, recommend any additional conditions to the court. These conditions shall be individualized to address the person's specific risk factors and criminogenic needs and may include, but are not limited to the following: Specification of residence or restrictions on residence including distance restrictions, specification of contact with a reasonable number of individuals upon the person's request who are verified by the department of corrections to be appropriate social contacts, prohibition of contact with potential or past victims, prohibition of alcohol and other drug use, participation in a specific course of inpatient or outpatient treatment that may include monitoring by the use of polygraph and plethysmograph, monitoring through the use of global positioning ~~((satellite—F:\Journal\2021 Journal\Journal2021\LegDay099\global positioning system.doc))~~ system technology, supervision by a department of corrections community corrections officer, a requirement that the person remain within the state unless the person receives prior authorization by the court, and any other conditions that the court determines are in the best interest of the person or others. A copy of the conditions of release shall be given to the person and to any designated service providers.

(b) To the greatest extent possible, the person, person's counsel, prosecuting agency responsible for the initial commitment, treatment provider, supervising community corrections officer, and appropriate clinical staff of the special commitment center shall meet and collaborate to craft individualized, narrowly tailored, and empirically based conditions to present to the court to help facilitate the person's successful transition to the community.

(5)(a) Prior to authorizing release to a less restrictive

alternative proposed by the department, the court shall consider whether ~~((it is appropriate to release the person to the person's county of commitment))~~ the person's less restrictive alternative placement is in accordance with fair share principles. To ensure equitable distribution of releases, and prevent the disproportionate grouping of persons subject to less restrictive orders in any one county, or in any one jurisdiction or community within a county, the legislature finds it is appropriate for releases to a less restrictive alternative to occur in ~~((the person's county of commitment, unless))~~ a manner that adheres to fair share principles. The legislature recognizes that there may be reasons why the department may not recommend that a person be released to his or her county of commitment, including availability of individualized resources, the person's support needs, or when the court determines that the person's return to his or her county of commitment would be inappropriate considering any court-issued protection orders, victim safety concerns that cannot be addressed through use of global positioning system technology, the ~~((availability))~~ unavailability of appropriate treatment or facilities that would adequately protect the community, negative influences on the person, ~~((and))~~ and the location of family or other persons or organizations offering support to the person. If the court authorizes conditional release based on the department's proposal to a county other than the county of commitment, the court shall enter specific findings regarding its decision and identify whether the release remains in line with fair share principles.

~~((b))~~ (i) When the department ~~((or court assists in developing a))~~ develops a less restrictive alternative placement under this section ~~((which is outside of the county of commitment, and there are two or more options for placement, it shall endeavor to develop the placement in a manner that does not have a disproportionate effect on a single county)), it shall attempt to identify a placement satisfying the requirements of RCW 71.09.092 that is aligned with fair share principles. The department shall document its rationale for the recommended placement.~~

(ii) If the department does not support or recommend conditional release to a less restrictive alternative due to a clinical determination, the department shall document its objection and certify that the department is developing the less restrictive alternative pursuant to a court order and not because of a clinical determination.

(iii) When the department develops or proposes a less restrictive alternative placement under this chapter, it shall be considered a predisposition recommendation.

(iv) In developing, modifying, and enforcing less restrictive alternatives, the department shall be deemed to be performing a quasi-judicial function.

~~((c))~~ (c) If the committed person is not conditionally released to his or her county of commitment, the department shall provide the law and justice council of the county in which the person is conditionally released with notice and a written explanation, including whether the department remains in compliance with fair share principles regarding releases under this chapter.

~~((d))~~ (d) For purposes of this section, the person's county of commitment means the county of the court which ordered the person's commitment.

~~((e))~~ (e) This subsection (5) does not apply to releases to a secure community transition facility under RCW 71.09.250.

(6)(a) When ordered by the court, the department must provide less restrictive alternative treatment that includes, at a minimum:

(i) The services identified in the person's discharge plan as outlined in RCW 71.09.080(4);

(ii) The assignment of a community care coordinator;

(iii) Regular contacts with providers of court-ordered treatment

services;

(iv) Community escorts, if needed;

(v) A transition plan that addresses the person's access to continued services upon unconditional discharge;

(vi) Financial support for necessary housing;

(vii) Life skills training and disability accommodations, if needed; and

(viii) Assistance in pursuing benefits, education, and employment.

(b) At the time the department of corrections is ordered to investigate a proposed less restrictive alternative placement, subject to the availability of amounts appropriated for this specific purpose, the department shall assign a social worker to assist the person with discharge planning, pursuing benefits, and coordination of care prior to release.

(i) The social worker shall assist the person with completing applications for benefits prior to the person's release from total confinement.

(ii) To promote continuity of care and the individual's success in the community, the department social worker shall be responsible for initiating a clinical transition of care between the last treating clinician at the special commitment center and the person's designated community treatment provider. This transition between one clinical setting to another shall occur no later than 15 days before an individual's release from the special commitment center.

(iii) If applicable, the social worker shall assist the person with locating any needed disability accommodations in the community and with obtaining resources to help address the person's identified life skills needs prior to release from total confinement.

(7) Any service provider designated to provide inpatient or outpatient treatment shall monthly, or as otherwise directed by the court, submit to the court, to the department of social and health services facility from which the person was released, to the prosecuting agency, and to the supervising community corrections officer, a report stating whether the person is complying with the terms and conditions of the conditional release to a less restrictive alternative.

~~((7))~~ (8) Each person released to a less restrictive alternative shall have his or her case reviewed by the court that released him or her no later than one year after such release and annually thereafter until the person is unconditionally discharged. Review may occur in a shorter time or more frequently, if the court, in its discretion on its own motion, or on motion of the person, the secretary, or the prosecuting agency so determines. The ~~((sole question))~~ questions to be determined by the court ~~((is))~~ are whether the person shall continue to be conditionally released to a less restrictive alternative, and if so, whether a modification to the person's less restrictive alternative order is appropriate to ensure the conditional release remains in the best interest of the person and adequate to protect the victim and the community. The court in making its determination shall be aided by the periodic reports filed pursuant to subsection ~~((6))~~ (7) of this section and the opinions of the secretary and other experts or professional persons.

**Sec. 7.** RCW 71.09.130 and 1995 c 216 s 16 are each amended to read as follows:

(1) In the event of an escape by a person committed under this chapter from a state institution or the disappearance of such a person while on conditional release, the superintendent or community corrections officer shall notify the following as appropriate: Local law enforcement officers, other governmental agencies, the person's relatives, and any other appropriate persons about information necessary for the public safety or to assist in

the apprehension of the person.

(2) If a person committed under this chapter disappears while on conditional release, the department of corrections may enter a warrant for the person's arrest for up to 96 hours pending entry of a bench warrant by the court.

(3) The department of corrections, its officers, agents, and employees are not liable for the acts of individuals on conditional release unless the department of corrections, its officers, agents, and employees acted with gross negligence.

(4) The department, its officers, agents, and employees are not liable for the acts of individuals on conditional release unless the department, its officers, agents, and employees acted with gross negligence.

**Sec. 8.** RCW 71.09.140 and 2012 c 257 s 12 are each amended to read as follows:

(1)(a) At the earliest possible date, and in no event later than ~~((thirty))~~ 30 days before conditional release, change of address for a person on conditional release, or unconditional discharge, except in the event of escape, the department of social and health services shall send written notice of conditional release, unconditional discharge, or escape, to the following:

~~((a))~~ (i) The chief of police of the city, if any, in which the person will reside or in which placement will be made under a less restrictive alternative;

~~((b))~~ (ii) The sheriff of the county in which the person will reside or in which placement will be made under a less restrictive alternative; and

~~((c))~~ (iii) The sheriff of the county where the person was last convicted of a sexually violent offense, if the department does not know where the person will reside.

The department shall notify the state patrol of the release of all sexually violent predators and that information shall be placed in the Washington crime information center for dissemination to all law enforcement.

(b) A return to total confinement or to a secure community transition facility pending revocation or modification proceedings is not considered a change of address for purposes of (a) of this subsection, and an additional community notification process is not required, unless conditional release is revoked under RCW 71.09.098 or the return lasts longer than 90 days.

(2) The same notice as required by subsection (1) of this section shall be sent to the following if such notice has been requested in writing about a specific person found to be a sexually violent predator under this chapter:

(a) The victim or victims of any sexually violent offenses for which the person was convicted in the past or the victim's next of kin if the crime was a homicide. "Next of kin" as used in this section means a person's spouse, parents, siblings, and children;

(b) Any witnesses who testified against the person in his or her commitment trial under RCW 71.09.060; and

(c) Any person specified in writing by the prosecuting agency. Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting agency to receive the notice, and the notice are confidential and shall not be available to the committed person.

(3) If a person committed as a sexually violent predator under this chapter escapes from a department of social and health services facility, the department shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the committed person resided immediately before his or her commitment as a sexually violent predator, or immediately before his or her incarceration for his or her most recent offense. If previously requested, the department shall also notify the

witnesses and the victims of the sexually violent offenses for which the person was convicted in the past or the victim's next of kin if the crime was a homicide. If the person is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(4) If the victim or victims of any sexually violent offenses for which the person was convicted in the past or the victim's next of kin, or any witness is under the age of ~~((sixteen))~~ 16, the notice required by this section shall be sent to the parents or legal guardian of the child.

(5) The department of social and health services shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(6) Nothing in this section shall impose any liability upon a chief of police of a city or sheriff of a county for failing to request in writing a notice as provided in subsection (1) of this section.

**Sec. 9.** RCW 71.09.250 and 2003 c 216 s 3 are each amended to read as follows:

(1)(a) The secretary is authorized to site, construct, occupy, and operate (i) a secure community transition facility on McNeil Island for persons authorized to petition for a less restrictive alternative under RCW 71.09.090(1) and who are conditionally released; and (ii) a special commitment center on McNeil Island with up to four hundred four beds as a total confinement facility under this chapter, subject to appropriated funding for those purposes. The secure community transition facility shall be authorized for the number of beds needed to ensure compliance with the orders of the superior courts under this chapter and the federal district court for the western district of Washington. The total number of beds in the secure community transition facility shall be limited to ~~((twenty-four))~~ 24, consisting of up to ~~((fifteen))~~ 15 transitional beds and up to nine pretransitional beds. The residents occupying the transitional beds shall be the only residents eligible for transitional services occurring in Pierce county. In no event shall more than ~~((fifteen))~~ 15 residents of the secure community transition facility be participating in off-island transitional, educational, or employment activity at the same time in Pierce county. The department shall provide the Pierce county sheriff, or his or her designee, with a list of the ~~((fifteen))~~ 15 residents so designated, along with their photographs and physical descriptions, and the list shall be immediately updated whenever a residential change occurs. The Pierce county sheriff, or his or her designee, shall be provided an opportunity to confirm the residential status of each resident leaving McNeil Island.

(b) For purposes of this subsection, "transitional beds" means beds only for residents who are judged by a qualified expert to be suitable to leave the island for treatment, education, and employment.

(2)(a) The secretary is authorized to site, either within the secure community transition facility established pursuant to subsection (1)(a)(i) of this section, or within the special commitment center, up to nine pretransitional beds.

(b) Residents assigned to pretransitional beds shall not be permitted to leave McNeil Island for education, employment, treatment, or community activities in Pierce county.

(c) For purposes of this subsection, "pretransitional beds" means beds for residents whose progress toward a less secure residential environment and transition into more complete community involvement is projected to take substantially longer than a typical resident of the special commitment center.

(3) Notwithstanding RCW 36.70A.103 or any other law, this statute preempts and supersedes local plans, development regulations, permitting requirements, inspection requirements,

and all other laws as necessary to enable the secretary to site, construct, occupy, and operate a secure community transition facility on McNeil Island and a total confinement facility on McNeil Island.

(4) To the greatest extent possible, until June 30, 2003, persons who were not civilly committed from the county in which the secure community transition facility established pursuant to subsection (1) of this section is located may not be conditionally released to a setting in that same county less restrictive than that facility.

(5) As of June 26, 2001, the state shall immediately cease any efforts in effect on such date to site secure community transition facilities, other than the facility authorized by subsection (1) of this section, and shall instead site such facilities in accordance with the provisions of this section.

(6) The department must:

(a) Identify the minimum and maximum number of secure community transition facility beds in addition to the facility established under subsection (1) of this section that may be necessary for the period of May 2004 through May 2007 and provide notice of these numbers to all counties by August 31, 2001; and

(b) Develop and publish policy guidelines for the siting and operation of secure community transition facilities.

(7)(a) The total number of secure community transition facility beds that may be required to be sited in a county between June 26, 2001, and June 30, 2008, may be no greater than the total number of persons civilly committed from that county, or detained at the special commitment center under a pending civil commitment petition from that county where a finding of probable cause had been made on April 1, 2001. The total number of secure community transition facility beds required to be sited in each county between July 1, 2008, and June 30, 2015, may be no greater than the total number of persons civilly committed from that county or detained at the special commitment center under a pending civil commitment petition from that county where a finding of probable cause had been made as of July 1, 2008.

(b) Counties and cities that provide secure community transition facility beds above the maximum number that they could be required to site under this subsection are eligible for a bonus grant under the incentive provisions in RCW 71.09.255. The county where the special commitment center is located shall receive this bonus grant for the number of beds in the facility established in subsection (1) of this section in excess of the maximum number established by this subsection.

(c) No secure community transition facilities in addition to the one established in subsection (1) of this section may be required to be sited in the county where the special commitment center is located until after June 30, 2008, provided however, that the county and its cities may elect to site additional secure community transition facilities and shall be eligible under the incentive provisions of RCW 71.09.255 for any additional facilities meeting the requirements of that section.

(8) After the department demonstrates the need for additional bed capacity to the appropriate committees of the legislature, and receives approval and funding from the appropriate committees of the legislature to build additional bed capacity, the state is authorized to site and operate secure community transition facilities and other conditional release and transitional facilities in any county in the state in accordance with RCW 71.09.315. In identifying potential counties and sites within a county for the location of a secure community transition facility or other conditional release and transitional facilities, the department shall

work with and assist local governments to provide for the equitable distribution of such facilities. In coordinating and deciding upon the siting of secure community transition facilities or other conditional release and transitional facilities within a county, great weight shall be given by the county and cities within the county to:

(a) The number and location of existing residential facility beds operated by the department of corrections or the mental health division of the department of social and health services in each jurisdiction in the county; and

(b) The number of registered sex offenders classified as level II or level III and the number of sex offenders registered as homeless residing in each jurisdiction in the county.

(9)(a) "Equitable distribution" means siting or locating secure community transition facilities and other conditional release and transitional facilities in a manner that will not cause a disproportionate grouping of similar facilities either in any one county, or in any one jurisdiction or community within a county, as relevant; and

(b) "Jurisdiction" means a city, town, or geographic area of a county in which distinct political or judicial authority may be exercised.

NEW SECTION. Sec. 10. A new section is added to chapter 71.09 RCW to read as follows:

To facilitate the primary role of the department in identifying less restrictive alternative placements under RCW 71.09.090 and discharge planning under RCW 71.09.080, subject to the availability of amounts appropriated for this specific purpose, the department shall conduct a study to explore the development of conditional release and transition facilities, which may include community-based state-operated living alternatives similar to the state-operated living alternative program operated by the developmental disabilities administration. Any facilities or placements developed under this section may be identified through a request for proposal process or through direct state acquisition and development. Any contracts with facilities or placements entered into under this section shall include a provision requiring oversight by the department to ensure the programs are operating appropriately.

NEW SECTION. Sec. 11. A new section is added to chapter 71.09 RCW to read as follows:

(1) In accordance with RCW 71.09.090 and 71.09.096, the department shall have the primary responsibility for developing a less restrictive alternative placement. To ensure the department has sufficient less restrictive alternative placements to choose from that satisfy the requirements of RCW 71.09.092, subject to the availability of amounts appropriated for this specific purpose, the department shall use a request for proposal process to solicit and contract with housing and treatment providers from across the state and facilitate fair share principles among the counties. In order to increase the number of housing options for individuals qualifying for a less restrictive alternative, the department shall have oversight of the vendors and providers who contract with the state, including the authority to inspect and ensure compliance, negotiate the rates charged for services, ensure adequate living conditions of housing locations, and terminate contracts. The department shall maintain a statewide accounting of the contracted community housing and treatment providers in each county and provide a biannual report to the legislature and governor by December 1st on the availability and adequacy of less restrictive alternative placements and the department's compliance with fair share principles.

(2) To facilitate its duties required under this section, the department shall use the following housing matrix and

considerations as a guide to planning and developing less restrictive alternative placements. The following considerations may not be used as a reason to deny a less restrictive alternative placement.

(a) Considerations for evaluating a proposed vendor's application for less restrictive alternative housing services shall include applicable state and local zoning and building codes, general housing requirements, availability of public services, and other considerations identified in accordance with RCW 71.09.315. The department shall require the housing provider to provide proof that the facility is in compliance with all local zoning and building codes.

(i) General housing requirements include running water, electricity, bedroom and living space of adequate size, and no mold or infestations.

(ii) Availability of public services include availability of chaperones and whether the placement is within a reasonable distance to a grocery store, bank, public transportation options, and offices for public services and benefits.

(iii) Other considerations include whether the placement is consistent with fair share principles across the counties, whether the placement is within reasonable distance to other current or planned components of the less restrictive alternative, whether the placement is within reasonable distance to employment opportunities, and the reliability of global positioning system technology.

(b) Factors for evaluating less restrictive alternative options for a specific individual include sex offender treatment considerations, criminogenic needs and risk factors, protective factors, and the specific needs of the client.

(i) Sex offender treatment considerations include whether the housing is within a reasonable distance from the treatment provider, whether the treatment provider is a good therapeutic match with the client, and whether the treatment provider has relevant experience and background to treat the client if the client has special needs.

(ii) Criminogenic needs and risk factors include consideration of the person's specific needs and risk factors in evaluating less restrictive alternative options.

(iii) Protective factors include whether housing is within a reasonable distance of family, friends, potential hobbies, potential employment, and educational opportunities.

(iv) Consideration of the client's specific needs includes assessing the availability of personal care assistance and in-home care assistance, and whether housing is within a reasonable distance of mental health, medical treatment options, and substance use disorder treatment options.

**NEW SECTION. Sec. 12.** A new section is added to chapter 71.09 RCW to read as follows:

(1) The department shall enter into a memorandum of understanding with the department of licensing to allow residents in total confinement at the special commitment center to obtain a state identification card through a written identification verification letter completed by the special commitment center and delivered to the department of licensing.

(2) The process shall occur upon the person's initial detention at the special commitment center. The process shall reoccur when the person's state identification card expires.

**NEW SECTION. Sec. 13.** A new section is added to chapter 71.09 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department, the sex offender policy board, and department of health shall convene a work group to develop recommendations to increase the availability and quality of sex offender treatment providers to meet the growing number of

persons qualifying for conditional release to a less restrictive alternative. The work group shall gather data on best practices in other states and make recommendations whether sex offender treatment providers should be required to contract with the department; whether annual or biannual trainings by the department should be mandatory for prospective and existing sex offender treatment providers; whether the department should provide competitive wages for services or pay that is commensurate with the years of experience or education level of the treatment provider; and whether the department should provide other incentives such as a cost-of-living pay increase or compensating providers for the cost of mandated trainings associated with the sex offender treatment provider license under chapter 18.155 RCW. A report shall be submitted to the legislature by December 1, 2021.

(2) This section expires June 30, 2022.

**NEW SECTION. Sec. 14.** A new section is added to chapter 71.09 RCW to read as follows:

(1) In accordance with RCW 9.94A.8673, the sex offender policy board shall meet quarterly during the 2021-2023 biennium to continue its review of sexually violent predators and less restrictive alternative policies and best practices, collaborate with stakeholders and the department, provide outreach to providers and stakeholders, and monitor implementation of this act. The board shall also explore and make recommendations whether to continue or remove the prohibition on a less restrictive alternative from including a placement in the community protection program pursuant to RCW 71A.12.230. The board shall provide semiannual updates to the appropriate committees of the legislature during the 2021-2023 biennium.

(2) This section expires June 30, 2023.

**NEW SECTION. Sec. 15.** A new section is added to chapter 9.94A RCW to read as follows:

(1) In accordance with section 14 of this act, the sex offender policy board shall meet quarterly during the 2021-2023 biennium to continue its review of sexually violent predators and less restrictive alternative policies and best practices, collaborate with stakeholders and the department, provide outreach to providers and stakeholders, and monitor implementation of this act. The board shall provide semiannual updates to the appropriate committees of the legislature during the 2021-2023 biennium.

(2) This section expires June 30, 2023."

Correct the title.

and the same are herewith transmitted.

MELISSA PALMER, Deputy Chief Clerk

#### MOTION

Senator Rolfes moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5163.

Senators Rolfes and Gildon spoke in favor of the motion.

Senator Rivers spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Rolfes that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5163.

The motion by Senator Rolfes carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5163 by voice vote.

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

5163, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5163, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 22; Absent, 0; Excused, 0.

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, Van De Wege, Wellman and Wilson, C.

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

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5163, as amended by the House, 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 5:39 p.m., on motion of Senator Liias, the Senate was declared to be at ease subject to the call of the President.

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The Senate was called to order at 5:46 p.m. by President Heck.

#### MOTION

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

#### SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1120, by House Committee on Health Care & Wellness (originally sponsored by Tharinger, Harris, Cody, Riccelli, Stonier and Macri)

Concerning state of emergency operations impacting long-term services and supports.

The measure was read the second time.

#### MOTION

Senator Cleveland moved that the following committee striking amendment by the Committee on Health & Long Term Care be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 43.43.832 and 2020 c 270 s 7 are each amended to read as follows:

(1) The Washington state patrol identification and criminal history section shall disclose conviction records as follows:

(a) An applicant's conviction record, upon the request of a business or organization as defined in RCW 43.43.830, a developmentally disabled person, or a vulnerable adult as defined

in RCW 43.43.830 or his or her guardian;

(b) The conviction record of an applicant for certification, upon the request of the Washington professional educator standards board;

(c) Any conviction record to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse, upon the request of a law enforcement agency, the office of the attorney general, prosecuting authority, or the department of social and health services; and

(d) A prospective client's or resident's conviction record, upon the request of a business or organization that qualifies for exemption under section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec. 501(c)(3)) and that provides emergency shelter or transitional housing for children, persons with developmental disabilities, or vulnerable adults.

(2) The secretary of the department of social and health services and the secretary of children, youth, and families must establish rules and set standards to require specific action when considering the information received pursuant to subsection (1) of this section, and when considering additional information including but not limited to civil adjudication proceedings as defined in RCW 43.43.830 and any out-of-state equivalent, in the following circumstances:

(a) When considering persons for state employment in positions directly responsible for the supervision, care, or treatment of children, vulnerable adults, or individuals with mental illness or developmental disabilities provided that: For persons residing in a home that will be utilized to provide foster care for dependent youth, a criminal background check will be required for all persons aged sixteen and older and the department of social and health services may require a criminal background check for persons who are younger than sixteen in situations where it may be warranted to ensure the safety of youth in foster care;

(b) When considering persons for state positions involving unsupervised access to vulnerable adults to conduct comprehensive assessments, financial eligibility determinations, licensing and certification activities, investigations, surveys, or case management; or for state positions otherwise required by federal law to meet employment standards;

(c) When licensing agencies or facilities with individuals in positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults, including but not limited to agencies or facilities licensed under chapter 74.15 or 18.51 RCW;

(d) When contracting with individuals or businesses or organizations for the care, supervision, case management, or treatment, including peer counseling, of children, developmentally disabled persons, or vulnerable adults, including but not limited to services contracted for under chapter 18.20, 70.127, 70.128, 72.36, or 74.39A RCW or Title 71A RCW;

(e) When individual providers as defined in RCW 74.39A.240 or providers paid by home care agencies provide in-home services involving unsupervised access to persons with physical, mental, or developmental disabilities or mental illness, or to vulnerable adults as defined in chapter 74.34 RCW, including but not limited to services provided under chapter 74.39 or 74.39A RCW.

(3) The secretary of the department of children, youth, and families shall investigate the conviction records, pending charges, and other information including civil adjudication proceeding records of current employees and of any person actively being considered for any position with the department who will or may

have unsupervised access to children, or for state positions otherwise required by federal law to meet employment standards. "Considered for any position" includes decisions about (a) initial hiring, layoffs, reallocations, transfers, promotions, or demotions, or (b) other decisions that result in an individual being in a position that will or may have unsupervised access to children as an employee, an intern, or a volunteer.

(4) The secretary of the department of children, youth, and families shall adopt rules and investigate conviction records, pending charges, and other information including civil adjudication proceeding records, in the following circumstances:

(a) When licensing or certifying agencies with individuals in positions that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood education services, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;

(b) When authorizing individuals who will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services in licensed or certified agencies, including but not limited to licensees, agency staff, interns, volunteers, contracted providers, and persons living on the premises who are sixteen years of age or older;

(c) When contracting with any business or organization for activities that will or may have unsupervised access to children who are in child day care, in early learning programs, or receiving early childhood learning education services;

(d) When establishing the eligibility criteria for individual providers to receive state paid subsidies to provide child day care or early learning services that will or may involve unsupervised access to children; and

(e) When responding to a request from an individual for a certificate of parental improvement under chapter 74.13 RCW.

(5) Whenever a state conviction record check is required by state law, persons may be employed or engaged as volunteers or independent contractors on a conditional basis pending completion of the state background investigation. Whenever a national criminal record check through the federal bureau of investigation is required by state law, a person may be employed or engaged as a volunteer or independent contractor on a conditional basis pending completion of the national check. The office of financial management shall adopt rules to accomplish the purposes of this subsection as it applies to state employees. The department of social and health services shall adopt rules to accomplish the purpose of this subsection as it applies to long-term care workers subject to RCW 74.39A.056.

(6)(a) For purposes of facilitating timely access to criminal background information and to reasonably minimize the number of requests made under this section, recognizing that certain health care providers change employment frequently, health care facilities may, upon request from another health care facility, share copies of completed criminal background inquiry information.

(b) Completed criminal background inquiry information may be shared by a willing health care facility only if the following conditions are satisfied: The licensed health care facility sharing the criminal background inquiry information is reasonably known to be the person's most recent employer, no more than twelve months has elapsed from the date the person was last employed at a licensed health care facility to the date of their current employment application, and the criminal background information is no more than two years old.

(c) If criminal background inquiry information is shared, the

health care facility employing the subject of the inquiry must require the applicant to sign a disclosure statement indicating that there has been no conviction or finding as described in RCW 43.43.842 since the completion date of the most recent criminal background inquiry.

(d) Any health care facility that knows or has reason to believe that an applicant has or may have a disqualifying conviction or finding as described in RCW 43.43.842, subsequent to the completion date of their most recent criminal background inquiry, shall be prohibited from relying on the applicant's previous employer's criminal background inquiry information. A new criminal background inquiry shall be requested pursuant to RCW 43.43.830 through 43.43.842.

(e) Health care facilities that share criminal background inquiry information shall be immune from any claim of defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of this information in accordance with this subsection.

(f) Health care facilities shall transmit and receive the criminal background inquiry information in a manner that reasonably protects the subject's rights to privacy and confidentiality.

(7) The department of social and health services may not consider any final founded finding of physical abuse or negligent treatment or maltreatment of a child made pursuant to chapter 26.44 RCW that is accompanied by a certificate of parental improvement or dependency as a result of a finding of abuse or neglect pursuant to chapter 13.34 RCW that is accompanied by a certificate of parental improvement when evaluating an applicant or employee's character, competency, and suitability pursuant to any background check authorized or required by this chapter, RCW 43.20A.710 or 74.39A.056, or any of the rules adopted thereunder.

**Sec. 2.** RCW 43.43.837 and 2019 c 470 s 12 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, in order to determine the character, competence, and suitability of any applicant or service provider to have unsupervised access, the secretary of the department of social and health services and the secretary of the department of children, youth, and families may require a fingerprint-based background check through both the Washington state patrol and the federal bureau of investigation at any time, but shall require a fingerprint-based background check when the applicant or service provider has resided in the state less than three consecutive years before application, and:

(a) Is an applicant or service provider providing services to children or people with developmental disabilities under RCW 74.15.030;

(b) Is an individual sixteen years of age or older who: (i) Is not under the placement and care authority of the department of children, youth, and families; and (ii) resides in an applicant or service provider's home, facility, entity, agency, or business or who is authorized by the department of children, youth, and families to provide services to children under RCW 74.15.030;

(c) Is an individual who is authorized by the department of social and health services to provide services to people with developmental disabilities under RCW 74.15.030; or

(d) Is an applicant or service provider providing in-home services funded by:

(i) Medicaid personal care under RCW 74.09.520;

(ii) Community options program entry system waiver services under RCW 74.39A.030;

(iii) Chore services under RCW 74.39A.110; or

(iv) Other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department of social and health services.



(2) Long-term care workers, as defined in RCW 74.39A.009, who are hired after January 7, 2012, are subject to background checks under RCW 74.39A.056.

(3) To satisfy the shared background check requirements provided for in RCW 43.216.270 and 43.20A.710, the department of children, youth, and families and the department of social and health services shall share federal fingerprint-based background check results as permitted under the law. The purpose of this provision is to allow both departments to fulfill their joint background check responsibility of checking any individual who may have unsupervised access to vulnerable adults, children, or juveniles. Neither department may share the federal background check results with any other state agency or person.

(4) The secretary of the department of children, youth, and families shall require a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation when the department seeks to approve an applicant or service provider for a foster or adoptive placement of children in accordance with federal and state law. Fees charged by the Washington state patrol and the federal bureau of investigation for fingerprint-based background checks shall be paid by the department of children, youth, and families for applicant and service providers providing foster care as required in RCW 74.15.030.

(5) Any secure facility operated by the department of social and health services or the department of children, youth, and families under chapter 71.09 RCW shall require applicants and service providers to undergo a fingerprint-based background check through the Washington state patrol identification and criminal history section and the federal bureau of investigation.

(6) Service providers and service provider applicants, except for those long-term care workers exempted in subsection (2) of this section, who are required to complete a fingerprint-based background check may be hired for a one hundred twenty-day provisional period as allowed under law or program rules when:

- (a) A fingerprint-based background check is pending; and
- (b) The applicant or service provider is not disqualified based on the immediate result of the background check.

(7) Fees charged by the Washington state patrol and the federal bureau of investigation for fingerprint-based background checks shall be paid by the applicable department for applicants or service providers providing:

- (a) Services to people with a developmental disability under RCW 74.15.030;
- (b) In-home services funded by medicaid personal care under RCW 74.09.520;
- (c) Community options program entry system waiver services under RCW 74.39A.030;
- (d) Chore services under RCW 74.39A.110;
- (e) Services under other home and community long-term care programs, established pursuant to chapters 74.39 and 74.39A RCW, administered by the department of social and health services or the department of children, youth, and families; and
- (f) Services in, or to residents of, a secure facility under RCW 71.09.115.

(8) Service providers licensed under RCW 74.15.030 must pay fees charged by the Washington state patrol and the federal bureau of investigation for conducting fingerprint-based background checks.

(9) Department of children, youth, and families service providers licensed under RCW 74.15.030 may not pass on the cost of the background check fees to their applicants unless the individual is determined to be disqualified due to the background information.

(10) The department of social and health services and the department of children, youth, and families shall develop rules identifying the financial responsibility of service providers, applicants, and the department for paying the fees charged by law enforcement to roll, print, or scan fingerprints-based for the purpose of a Washington state patrol or federal bureau of investigation fingerprint-based background check.

(11) For purposes of this section, unless the context plainly indicates otherwise:

(a) "Applicant" means a current or prospective department of social and health services, department of children, youth, and families, or service provider employee, volunteer, student, intern, researcher, contractor, or any other individual who will or may have unsupervised access because of the nature of the work or services he or she provides. "Applicant" includes but is not limited to any individual who will or may have unsupervised access and is:

(i) Applying for a license or certification from the department of social and health services or the department of children, youth, and families;

(ii) Seeking a contract with the department of social and health services, the department of children, youth, and families, or a service provider;

(iii) Applying for employment, promotion, reallocation, or transfer;

(iv) An individual that a department of social and health services or department of children, youth, and families client or guardian of a department of social and health services or department of children, youth, and families client chooses to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to receive payment from the department of social and health services or the department of children, youth, and families for services rendered; or

(v) A department of social and health services or department of children, youth, and families applicant who will or may work in a department-covered position.

(b) "Authorized" means the department of social and health services or the department of children, youth, and families grants an applicant, home, or facility permission to:

(i) Conduct licensing, certification, or contracting activities;

(ii) Have unsupervised access to vulnerable adults, juveniles, and children;

(iii) Receive payments from a department of social and health services or department of children, youth, and families program; or

(iv) Work or serve in a department of social and health services or department of children, youth, and families-covered position.

(c) "Secretary" means the secretary of the department of social and health services.

(d) "Secure facility" has the meaning provided in RCW 71.09.020.

(e) "Service provider" means entities, facilities, agencies, businesses, or individuals who are licensed, certified, authorized, or regulated by, receive payment from, or have contracts or agreements with the department of social and health services or the department of children, youth, and families to provide services to vulnerable adults, juveniles, or children. "Service provider" includes individuals whom a department of social and health services or department of children, youth, and families client or guardian of a department of social and health services or department of children, youth, and families client may choose to hire or engage to provide services to himself or herself or another vulnerable adult, juvenile, or child and who might be eligible to

receive payment from the department of social and health services or the department of children, youth, and families for services rendered. (~~"Service provider" does not include those certified under chapter 70.96A RCW.~~)

**Sec. 3.** RCW 74.39A.056 and 2020 c 270 s 8 are each amended to read as follows:

(1)(a) All long-term care workers shall be screened through state and federal background checks in a uniform and timely manner to verify that they do not have a history that would disqualify them from working with vulnerable persons. The department must process background checks for long-term care workers and make the information available to employers, prospective employers, and others as authorized by law.

(b)(i) (~~Except as provided in (b)(ii) of this subsection, for~~) For long-term care workers hired on or after January 7, 2012, the background checks required under this section shall include checking against the federal bureau of investigation fingerprint identification records system (~~and against the national sex offenders registry or their successor programs~~) or its successor program. The department shall require these long-term care workers to submit fingerprints for the purpose of investigating conviction records through both the Washington state patrol and the federal bureau of investigation. The department shall not pass on the cost of these criminal background checks to the workers or their employers.

(ii) (~~This subsection does not apply to long-term care workers employed by community residential service businesses until January 1, 2016.~~) A long-term care worker who is not disqualified by the state background check can work and have unsupervised access pending the results of the federal bureau of investigation fingerprint background check as allowed by rules adopted by the department.

(c) The department shall share state and federal background check results with the department of health in accordance with RCW 18.88B.080.

(d) Background check screening required under this section and department rules is not required for an employee of a consumer directed employer if all of the following circumstances apply:

(i) The individual has an individual provider contract with the department;

(ii) The last background check on the contracted individual provider is still valid under department rules and did not disqualify the individual from providing personal care services;

(iii) Employment by the consumer directed employer is the only reason a new background check would be required; and

(iv) The department's background check results have been shared with the consumer directed employer.

(e) The department may require a fingerprint-based background check through both the Washington state patrol and the federal bureau of investigation at any time.

(2) A provider may not be employed in the care of and have unsupervised access to vulnerable adults if:

(a) The provider is on the vulnerable adult abuse registry or on any other registry based upon a finding of abuse, abandonment, neglect, or financial exploitation of a vulnerable adult;

(b) On or after October 1, 1998, the department of children, youth, and families, or its predecessor agency, has made a founded finding of abuse or neglect of a child against the provider. If the provider has received a certificate of parental improvement under chapter 74.13 RCW pertaining to the finding, the provider is not disqualified under this section;

(c) A disciplining authority, including the department of health, has made a finding of abuse, abandonment, neglect, or financial exploitation of a minor or a vulnerable adult against the provider;

or

(d) A court has issued an order that includes a finding of fact or conclusion of law that the provider has committed abuse, abandonment, neglect, or financial exploitation of a minor or vulnerable adult. If the provider has received a certificate of parental improvement under chapter 74.13 RCW pertaining to the finding of fact or conclusion of law, the provider is not disqualified under this section.

(3) The department shall establish, by rule, a state registry which contains identifying information about long-term care workers identified under this chapter who have final substantiated findings of abuse, neglect, financial exploitation, or abandonment of a vulnerable adult as defined in RCW 74.34.020. The rule must include disclosure, disposition of findings, notification, findings of fact, appeal rights, and fair hearing requirements. The department shall disclose, upon request, final substantiated findings of abuse, neglect, financial exploitation, or abandonment to any person so requesting this information. This information must also be shared with the department of health to advance the purposes of chapter 18.88B RCW.

(4) For the purposes of this section, "provider" means:

(a) An individual provider as defined in RCW 74.39A.240;

(b) An employee, licensee, or contractor of any of the following: A home care agency licensed under chapter 70.127 RCW; a nursing home under chapter 18.51 RCW; an assisted living facility under chapter 18.20 RCW; an enhanced services facility under chapter 70.97 RCW; a certified resident services and supports agency licensed or certified under chapter 71A.12 RCW; an adult family home under chapter 70.128 RCW; or any long-term care facility certified to provide medicaid or medicare services; and

(c) Any contractor of the department who may have unsupervised access to vulnerable adults.

(5) The department shall adopt rules to implement this section.

**Sec. 4.** RCW 18.51.091 and 2020 c 263 s 1 are each amended to read as follows:

(1) The department shall inspect each nursing home periodically in accordance with federal standards under 42 C.F.R. Part 488, Subpart E. The inspection shall be made without providing advance notice of it. Every inspection may include an inspection of every part of the premises and an examination of all records, methods of administration, the general and special dietary and the stores and methods of supply. Those nursing homes that provide community-based care shall establish and maintain separate and distinct accounting and other essential records for the purpose of appropriately allocating costs of the providing of such care: PROVIDED, That such costs shall not be considered allowable costs for reimbursement purposes under chapter 74.46 RCW. Following such inspection or inspections, written notice of any violation of this law or the rules and regulations promulgated hereunder, shall be given to the applicant or licensee and the department. The notice shall describe the reasons for the facility's noncompliance. The department may prescribe by regulations that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition or new construction, submit its plans and specifications therefor to the department for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized.

(2) If a pandemic, natural disaster, or other declared state of emergency prevents the department from completing inspections according to the timeline in subsection (1) of this section, the department shall adopt rules to reestablish inspection timelines based on the length of time since the last complete inspection,

compliance history of each facility, immediate health or safety concerns, and centers for medicare and medicaid services requirements.

(a) Rules adopted under this subsection (2) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all facility inspections are occurring according to time frames established in subsection (1) of this section, whichever occurs later. Once the department determines a rule adopted under this subsection (2) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of inspection compliance with subsection (1) of this section and provide the legislature with a report.

**Sec. 5.** RCW 18.51.230 and 2020 c 263 s 2 are each amended to read as follows:

(1) The department shall, in addition to any inspections conducted pursuant to complaints filed pursuant to RCW 18.51.190, conduct a periodic general inspection of each nursing home in the state without providing advance notice of such inspection. Such inspections must conform to the federal standards for surveys under 42 C.F.R. Part 488, Subpart E.

(2) If a pandemic, natural disaster, or other declared state of emergency prevents the department from completing inspections according to the timeline in subsection (1) of this section, the department shall adopt rules to reestablish inspection timelines based on the length of time since the last complete inspection, compliance history of each facility, immediate health or safety concerns, and centers for medicare and medicaid services requirements.

(a) Rules adopted under this subsection (2) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all facility inspections are occurring according to time frames established in subsection (1) of this section, whichever occurs later. Once the department determines a rule adopted under this subsection (2) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of inspection compliance with subsection (1) of this section and provide the legislature with a report.

**Sec. 6.** RCW 74.42.360 and 2020 c 263 s 3 are each amended to read as follows:

(1) The facility shall have staff on duty twenty-four hours daily sufficient in number and qualifications to carry out the provisions of RCW 74.42.010 through 74.42.570 and the policies, responsibilities, and programs of the facility.

(2) The department shall institute minimum staffing standards for nursing homes. Beginning July 1, 2016, facilities must provide a minimum of 3.4 hours per resident day of direct care. Direct care staff has the same meaning as defined in RCW 74.42.010. The minimum staffing standard includes the time when such staff are providing hands-on care related to activities of daily living and nursing-related tasks, as well as care planning. The legislature intends to increase the minimum staffing standard to 4.1 hours per resident day of direct care, but the effective date of a standard higher than 3.4 hours per resident day of direct care will be identified if and only if funding is provided explicitly for an increase of the minimum staffing standard for direct care.

(a) The department shall establish in rule a system of

compliance of minimum direct care staffing standards by January 1, 2016. Oversight must be done at least quarterly using the centers for medicare and medicaid services' payroll-based journal and nursing home facility census and payroll data.

(b) The department shall establish in rule by January 1, 2016, a system of financial penalties for facilities out of compliance with minimum staffing standards. No monetary penalty may be issued during the implementation period of July 1, 2016, through September 30, 2016. If a facility is found noncompliant during the implementation period, the department shall provide a written notice identifying the staffing deficiency and require the facility to provide a sufficiently detailed correction plan to meet the statutory minimum staffing levels. Monetary penalties begin October 1, 2016. Monetary penalties must be established based on a formula that calculates the cost of wages and benefits for the missing staff hours. If a facility meets the requirements in subsection (3) or (4) of this section, the penalty amount must be based solely on the wages and benefits of certified nurse aides. The first monetary penalty for noncompliance must be at a lower amount than subsequent findings of noncompliance. Monetary penalties established by the department may not exceed two hundred percent of the wage and benefit costs that would have otherwise been expended to achieve the required staffing minimum hours per resident day for the quarter. A facility found out of compliance must be assessed a monetary penalty at the lowest penalty level if the facility has met or exceeded the requirements in subsection (2) of this section for three or more consecutive years. Beginning July 1, 2016, pursuant to rules established by the department, funds that are received from financial penalties must be used for technical assistance, specialized training, or an increase to the quality enhancement established in RCW 74.46.561.

(c) The department shall establish in rule an exception allowing geriatric behavioral health workers as defined in RCW 74.42.010 to be recognized in the minimum staffing requirements as part of the direct care service delivery to individuals who have a behavioral health condition. Hours worked by geriatric behavioral health workers may be recognized as direct care hours for purposes of the minimum staffing requirements only up to a portion of the total hours equal to the proportion of resident days of clients with a behavioral health condition identified at that facility on the most recent semiannual minimum data set. In order to qualify for the exception:

(i) The worker must:

(A) Have a bachelor's or master's degree in social work, behavioral health, or other related areas; or

(B) Have at least three years experience providing care for individuals with chronic mental health issues, dementia, or intellectual and developmental disabilities in a long-term care or behavioral health care setting; or

(C) Have successfully completed a facility-based behavioral health curriculum approved by the department under RCW 74.39A.078;

(ii) Any geriatric behavioral health worker holding less than a master's degree in social work must be directly supervised by an employee who has a master's degree in social work or a registered nurse.

(d)(i) The department shall establish a limited exception to the 3.4 hours per resident day staffing requirement for facilities demonstrating a good faith effort to hire and retain staff.

(ii) To determine initial facility eligibility for exception consideration, the department shall send surveys to facilities anticipated to be below, at, or slightly above the 3.4 hours per resident day requirement. These surveys must measure the hours

per resident day in a manner as similar as possible to the centers for medicare and medicaid services' payroll-based journal and cover the staffing of a facility from October through December of 2015, January through March of 2016, and April through June of 2016. A facility must be below the 3.4 staffing standard on all three surveys to be eligible for exception consideration. If the staffing hours per resident day for a facility declines from any quarter to another during the survey period, the facility must provide sufficient information to the department to allow the department to determine if the staffing decrease was deliberate or a result of neglect, which is the lack of evidence demonstrating the facility's efforts to maintain or improve its staffing ratio. The burden of proof is on the facility and the determination of whether or not the decrease was deliberate or due to neglect is entirely at the discretion of the department. If the department determines a facility's decline was deliberate or due to neglect, that facility is not eligible for an exception consideration.

(iii) To determine eligibility for exception approval, the department shall review the plan of correction submitted by the facility. Before a facility's exception may be renewed, the department must determine that sufficient progress is being made towards reaching the 3.4 hours per resident day staffing requirement. When reviewing whether to grant or renew an exception, the department must consider factors including but not limited to: Financial incentives offered by the facilities such as recruitment bonuses and other incentives; the robustness of the recruitment process; county employment data; specific steps the facility has undertaken to improve retention; improvements in the staffing ratio compared to the baseline established in the surveys and whether this trend is continuing; and compliance with the process of submitting staffing data, adherence to the plan of correction, and any progress toward meeting this plan, as determined by the department.

(iv) Only facilities that have their direct care component rate increase capped according to RCW 74.46.561 are eligible for exception consideration. Facilities that will have their direct care component rate increase capped for one or two years are eligible for exception consideration through June 30, 2017. Facilities that will have their direct care component rate increase capped for three years are eligible for exception consideration through June 30, 2018.

(v) The department may not grant or renew a facility's exception if the facility meets the 3.4 hours per resident day staffing requirement and subsequently drops below the 3.4 hours per resident day staffing requirement.

(vi) The department may grant exceptions for a six-month period per exception. The department's authority to grant exceptions to the 3.4 hours per resident day staffing requirement expires June 30, 2018.

(3)(a) Large nonessential community providers must have a registered nurse on duty directly supervising resident care twenty-four hours per day, seven days per week.

(b)(i) The department shall establish a limited exception process for large nonessential community providers that can demonstrate a good faith effort to hire a registered nurse for the last eight hours of required coverage per day. In granting an exception, the department may consider the competitiveness of the wages and benefits offered as compared to nursing facilities in comparable geographic or metropolitan areas within Washington state, the provider's recruitment and retention efforts, and the availability of registered nurses in the particular geographic area. A one-year exception may be granted and may be renewable; however, the department may limit the admission of new residents, based on medical conditions or complexities, when a registered nurse is not on-site and readily available. If a

large nonessential community provider receives an exception, that information must be included in the department's nursing home locator.

(ii) By August 1, 2023, and every three years thereafter, the department, along with a stakeholder work group established by the department, shall conduct a review of the exceptions process to determine if it is still necessary. As part of this review, the department shall provide the legislature with a report that includes enforcement and citation data for large nonessential community providers that were granted an exception in the three previous fiscal years in comparison to those without an exception. The report must include a similar comparison of data, provided to the department by the long-term care ombuds, on long-term care ombuds referrals for large nonessential community providers that were granted an exception in the three previous fiscal years and those without an exception. This report, along with a recommendation as to whether the exceptions process should continue, is due to the legislature by December 1st of each year in which a review is conducted. Based on the recommendations outlined in this report, the legislature may take action to end the exceptions process.

(4) Essential community providers and small nonessential community providers must have a registered nurse on duty directly supervising resident care a minimum of sixteen hours per day, seven days per week, and a registered nurse or a licensed practical nurse on duty directly supervising resident care the remaining eight hours per day, seven days per week.

(5) For the purposes of this section, "behavioral health condition" means one or more of the behavioral symptoms specified in section E of the minimum data set.

(6) If a pandemic, natural disaster, or other declared state of emergency impedes or prevents facilities from compliance with subsections (2) through (4) of this section, the department may adopt rules to grant exceptions to these requirements, waive penalties, and suspend oversight activities. Facilities must remain in compliance with subsection (1) of this section. Rules adopted under this subsection are effective until 12 months after the termination of the pandemic, natural disaster, or other declared state of emergency or until determined no longer necessary by the department, whichever occurs first. Once the department determines a rule adopted under this subsection is no longer necessary, it must repeal the rule under RCW 34.05.353.

**Sec. 7.** RCW 74.39A.074 and 2017 c 216 s 1 are each amended to read as follows:

(1)(a) Except for long-term care workers exempt from certification under RCW 18.88B.041(1)(a), all persons hired as long-term care workers must meet the minimum training requirements in this section within one hundred twenty calendar days after the date of being hired.

(b) Except as provided in RCW 74.39A.076, the minimum training requirement is seventy-five hours of entry-level training approved by the department. A long-term care worker must successfully complete five of these seventy-five hours before being eligible to provide care.

(c) Training required by (d) of this subsection applies toward the training required under RCW 18.20.270 or 70.128.230 or any statutory or regulatory training requirements for long-term care workers employed by community residential service businesses.

(d) The seventy-five hours of entry-level training required shall be as follows:

(i) Before a long-term care worker is eligible to provide care, he or she must complete:

(A) Two hours of orientation training regarding his or her role as caregiver and the applicable terms of employment; and

(B) Three hours of safety training, including basic safety

precautions, emergency procedures, and infection control; and

(ii) Seventy hours of long-term care basic training, including training related to:

(A) Core competencies; and

(B) Population specific competencies, including identification of individuals with potential hearing loss and how to seek assistance if hearing loss is suspected.

(2) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors on the competencies and training topics in this section.

(3) Individual providers under RCW 74.39A.270 shall be compensated for training time required by this section.

(4) If a pandemic, natural disaster, or other declared state of emergency impacts the ability of long-term care workers to complete training as required by this section, the department may adopt rules to allow long-term care workers additional time to complete the training requirements.

(a) Rules adopted under this subsection (4) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all long-term care workers who were unable to complete the training required in subsection (1)(a) of this section have had adequate access to complete the required training, whichever is later. Once the department determines a rule adopted under this subsection (4) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of training compliance with subsection (1)(a) of this section and provide the legislature with a report.

(5) The department shall adopt rules to implement this section.

**Sec. 8.** RCW 74.39A.076 and 2019 c 363 s 19 are each amended to read as follows:

(1) Beginning January 7, 2012, except for long-term care workers exempt from certification under RCW 18.88B.041(1)(a):

(a) A biological, step, or adoptive parent who is the individual provider only for the person's developmentally disabled son or daughter must receive twelve hours of training relevant to the needs of adults with developmental disabilities within the first one hundred twenty days after becoming an individual provider.

(b) A spouse or registered domestic partner who is a long-term care worker only for a spouse or domestic partner, pursuant to the long-term services and supports trust program established in chapter 50B.04 RCW, must receive fifteen hours of basic training, and at least six hours of additional focused training based on the care-receiving spouse's or partner's needs, within the first one hundred twenty days after becoming a long-term care worker.

(c) A person working as an individual provider who (i) provides respite care services only for individuals with developmental disabilities receiving services under Title 71A RCW or only for individuals who receive services under this chapter, and (ii) works three hundred hours or less in any calendar year, must complete fourteen hours of training within the first one hundred twenty days after becoming an individual provider. Five of the fourteen hours must be completed before becoming eligible to provide care, including two hours of orientation training regarding the caregiving role and terms of employment and three hours of safety training. The training partnership identified in

RCW 74.39A.360 must offer at least twelve of the fourteen hours online, and five of those online hours must be individually selected from elective courses.

(d) Individual providers identified in (d)(i) or (ii) of this subsection must complete thirty-five hours of training within the first one hundred twenty days after becoming an individual provider. Five of the thirty-five hours must be completed before becoming eligible to provide care. Two of these five hours shall be devoted to an orientation training regarding an individual provider's role as caregiver and the applicable terms of employment, and three hours shall be devoted to safety training, including basic safety precautions, emergency procedures, and infection control. Individual providers subject to this requirement include:

(i) An individual provider caring only for the individual provider's biological, step, or adoptive child or parent unless covered by (a) of this subsection; and

(ii) A person working as an individual provider who provides twenty hours or less of care for one person in any calendar month.

(2) In computing the time periods in this section, the first day is the date of hire.

(3) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors.

(4) If a pandemic, natural disaster, or other declared state of emergency impacts the ability of long-term care workers to complete training as required by this section, the department may adopt rules to allow long-term care workers additional time to complete the training requirements.

(a) Rules adopted under this subsection (4) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all long-term care workers who were unable to complete the training required in subsection (1) of this section have had adequate access to complete the required training, whichever is later. Once the department determines a rule adopted under this subsection (4) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of training compliance with subsection (1) of this section and provide the legislature with a report.

(5) The department shall adopt rules to implement this section.

**Sec. 9.** RCW 74.39A.341 and 2015 c 152 s 3 are each amended to read as follows:

(1) All long-term care workers shall complete twelve hours of continuing education training in advanced training topics each year. This requirement applies beginning July 1, 2012.

(2) Completion of continuing education as required in this section is a prerequisite to maintaining home care aide certification under chapter 18.88B RCW.

(3) Unless voluntarily certified as a home care aide under chapter 18.88B RCW, subsection (1) of this section does not apply to:

(a) An individual provider caring only for his or her biological, step, or adoptive child;

(b) Registered nurses and licensed practical nurses licensed under chapter 18.79 RCW;

(c) Before January 1, 2016, a long-term care worker employed by a community residential service business;

(d) A person working as an individual provider who provides twenty hours or less of care for one person in any calendar month; or

(e) A person working as an individual provider who only provides respite services and works less than three hundred hours in any calendar year.

(4) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors.

(5) Individual providers under RCW 74.39A.270 shall be compensated for training time required by this section.

(6) If a pandemic, natural disaster, or other declared state of emergency impacts the ability of long-term care workers to complete training as required by this section, the department may adopt rules to allow long-term care workers additional time to complete the training requirements.

(a) Rules adopted under this subsection (6) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all long-term care workers who were unable to complete the training required in this section have had adequate access to complete the required training, whichever is later. Once the department determines a rule adopted under this subsection (6) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of training compliance with subsection (1) of this section and provide the legislature with a report.

(7) The department of health shall adopt rules to implement subsection (1) of this section.

~~((7))~~ (8) The department shall adopt rules to implement subsection (2) of this section.

**Sec. 10.** RCW 18.88B.021 and 2013 c 259 s 1 are each amended to read as follows:

(1) Beginning January 7, 2012, except as provided in RCW 18.88B.041, any person hired as a long-term care worker must be certified as a home care aide as provided in this chapter within two hundred calendar days after the date of ~~((being hired. In computing the time periods in this subsection, the first day is the date of))~~ hire, as defined by the department. The department may adopt rules determining under which circumstances a long-term care worker may have more than one date of hire, restarting the person's 200-day period to obtain certification as a home care aide.

(2)(a) No person may practice or, by use of any title or description, represent himself or herself as a certified home care aide without being certified as provided in this chapter.

(b) This section does not prohibit a person: (i) From practicing a profession for which the person has been issued a license or which is specifically authorized under this state's laws; or (ii) who is exempt from certification under RCW 18.88B.041 from providing services as a long-term care worker.

(c) In consultation with consumer and worker representatives, the department shall, by January 1, 2013, establish by rule a single scope of practice that encompasses both long-term care workers who are certified home care aides and long-term care workers

who are exempted from certification under RCW 18.88B.041.

(3) If a pandemic, natural disaster, or other declared state of emergency impacts the ability of long-term care workers to complete certification as required by this section, the department may adopt rules to allow long-term care workers additional time to become certified.

(a) Rules adopted under this subsection (3) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that additional time for long-term care workers to become certified is no longer necessary, whichever is later. Once the department determines a rule adopted under this subsection (3) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of certification compliance with subsection (1) of this section and rules adopted under this subsection (3) and provide the legislature with a report.

(4) The department shall adopt rules to implement this section.  
**Sec. 11.** RCW 70.128.230 and 2019 c 466 s 5 are each amended to read as follows:

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

(a) "Caregiver" includes all adult family home resident managers and any person who provides residents with hands-on personal care on behalf of an adult family home, except volunteers who are directly supervised.

(b) "Indirect supervision" means oversight by a person who has demonstrated competency in the core areas or has been fully exempted from the training requirements pursuant to this section and is quickly and easily available to the caregiver, but not necessarily on-site.

(2) Training must have three components: Orientation, basic training, and continuing education. All adult family home providers, resident managers, and employees, or volunteers who routinely interact with residents shall complete orientation. Caregivers shall complete orientation, basic training, and continuing education.

(3) Orientation consists of introductory information on residents' rights, communication skills, fire and life safety, and universal precautions. Orientation must be provided at the facility by appropriate adult family home staff to all adult family home employees before the employees have routine interaction with residents.

(4) Basic training consists of modules on the core knowledge and skills that caregivers need to learn and understand to effectively and safely provide care to residents. Basic training must be outcome-based, and the effectiveness of the basic training must be measured by demonstrated competency in the core areas through the use of a competency test. Basic training must be completed by caregivers within one hundred twenty days of the date on which they begin to provide hands-on care. Until competency in the core areas has been demonstrated, caregivers shall not provide hands-on personal care to residents without direct supervision.

(5) For adult family homes that serve residents with special needs such as dementia, developmental disabilities, or mental illness, specialty training is required of providers and resident managers.

(a) Specialty training consists of modules on the core knowledge and skills that providers and resident managers need to effectively and safely provide care to residents with special needs. Specialty training should be integrated into basic training wherever appropriate. Specialty training must be outcome-based,

and the effectiveness of the specialty training measured by demonstrated competency in the core specialty areas through the use of a competency test.

(b) Specialty training must be completed by providers and resident managers before admitting and serving residents who have been determined to have special needs related to mental illness, dementia, or a developmental disability. Should a resident develop special needs while living in a home without specialty designation, the provider and resident manager have one hundred twenty days to complete specialty training.

(6) Continuing education consists of ongoing delivery of information to caregivers on various topics relevant to the care setting and care needs of residents. Competency testing is not required for continuing education. Continuing education is not required in the same calendar year in which basic or modified basic training is successfully completed. Continuing education is required in each calendar year thereafter. If specialty training is completed, the specialty training applies toward any continuing education requirement for up to two years following the completion of the specialty training.

(7) Persons who successfully complete the competency challenge test for basic training are fully exempt from the basic training requirements of this section. Persons who successfully complete the specialty training competency challenge test are fully exempt from the specialty training requirements of this section.

(8)(a) Registered nurses and licensed practical nurses licensed under chapter 18.79 RCW are exempt from any continuing education requirement established under this section.

(b) The department may adopt rules that would exempt licensed persons from all or part of the training requirements under this chapter, if they are (i) performing the tasks for which they are licensed and (ii) subject to chapter 18.130 RCW.

(9) In an effort to improve access to training and education and reduce costs, especially for rural communities, the adult family home training network must include the use of innovative types of learning strategies such as internet resources, videotapes, and distance learning using satellite technology coordinated through community colleges, private associations, or other entities, as defined by the department.

(10) The adult family home training network shall assist adult family homes that desire to deliver facility-based training with facility designated trainers, or adult family homes that desire to pool their resources to create shared training systems. The department shall develop criteria for reviewing and approving trainers and training materials. The department may approve a curriculum based upon attestation by an adult family home administrator that the adult family home's training curriculum addresses basic and specialty training competencies identified by the department, and shall review a curriculum to verify that it meets these requirements. The department may conduct the review as part of the next regularly scheduled inspection authorized under RCW 70.128.070. The department shall rescind approval of any curriculum if it determines that the curriculum does not meet these requirements.

(11) The department shall adopt rules by September 1, 2002, for the implementation of this section.

(12)(a) Except as provided in (b) of this subsection, the orientation, basic training, specialty training, and continuing education requirements of this section commence September 1, 2002, and shall be applied to (i) employees hired subsequent to September 1, 2002; or (ii) existing employees that on September 1, 2002, have not successfully completed the training requirements under RCW 70.128.120 or 70.128.130 and this

section. Existing employees who have not successfully completed the training requirements under RCW 70.128.120 or 70.128.130 shall be subject to all applicable requirements of this section.

(b) Beginning January 7, 2012, long-term care workers, as defined in RCW 74.39A.009, employed by an adult family home are also subject to the training requirements under RCW 74.39A.074.

(13) If a pandemic, natural disaster, or other declared state of emergency makes specialty training unavailable, the department may adopt rules to allow an adult family home where the provider and resident manager have not completed specialty training to admit a resident or residents with special needs related to mental illness, dementia, or a developmental disability, or to care for a resident or residents already living in the home who develop special needs. Such rules must include information about how to complete the specialty training once the training is available.

(a) Rules adopted under this subsection (13) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that providers and resident managers who were unable to complete the specialty training required in subsection (5)(b) of this section have had adequate access to complete the required training, whichever is later. Once the department determines a rule adopted under this subsection (13) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of training compliance with subsection (5)(b) of this section and provide the legislature with a report.

**Sec. 12.** RCW 18.20.270 and 2013 c 259 s 4 are each amended to read as follows:

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

(a) "Caregiver" includes any person who provides residents with hands-on personal care on behalf of an assisted living facility, except volunteers who are directly supervised.

(b) "Direct supervision" means oversight by a person who has demonstrated competency in the core areas or has been fully exempted from the training requirements pursuant to this section, is on the premises, and is quickly and easily available to the caregiver.

(2) Training must have the following components: Orientation, basic training, specialty training as appropriate, and continuing education. All assisted living facility employees or volunteers who routinely interact with residents shall complete orientation. Assisted living facility administrators, or their designees, and caregivers shall complete orientation, basic training, specialty training as appropriate, and continuing education.

(3) Orientation consists of introductory information on residents' rights, communication skills, fire and life safety, and universal precautions. Orientation must be provided at the facility by appropriate assisted living facility staff to all assisted living facility employees before the employees have routine interaction with residents.

(4) Basic training consists of modules on the core knowledge and skills that caregivers need to learn and understand to effectively and safely provide care to residents. Basic training must be outcome-based, and the effectiveness of the basic training must be measured by demonstrated competency in the core areas through the use of a competency test. Basic training must be completed by caregivers within one hundred twenty days of the date on which they begin to provide hands-on care. Until competency in the core areas has been demonstrated, caregivers

shall not provide hands-on personal care to residents without direct supervision. Assisted living facility administrators, or their designees, must complete basic training and demonstrate competency within one hundred twenty days of employment.

(5) For assisted living facilities that serve residents with special needs such as dementia, developmental disabilities, or mental illness, specialty training is required of administrators, or designees, and caregivers.

(a) Specialty training consists of modules on the core knowledge and skills that caregivers need to effectively and safely provide care to residents with special needs. Specialty training should be integrated into basic training wherever appropriate. Specialty training must be outcome-based, and the effectiveness of the specialty training measured by demonstrated competency in the core specialty areas through the use of a competency test.

(b) Specialty training must be completed by caregivers within one hundred twenty days of the date on which they begin to provide hands-on care to a resident having special needs. However, if specialty training is not integrated with basic training, the specialty training must be completed within ninety days of completion of basic training. Until competency in the core specialty areas has been demonstrated, caregivers shall not provide hands-on personal care to residents with special needs without direct supervision.

(c) Assisted living facility administrators, or their designees, must complete specialty training and demonstrate competency within one hundred twenty days from the date on which the administrator or his or her designee is hired, if the assisted living facility serves one or more residents with special needs.

(6) Continuing education consists of ongoing delivery of information to caregivers on various topics relevant to the care setting and care needs of residents. Competency testing is not required for continuing education. Continuing education is not required in the same calendar year in which basic or modified basic training is successfully completed. Continuing education is required in each calendar year thereafter. If specialty training is completed, the specialty training applies toward any continuing education requirement for up to two years following the completion of the specialty training.

(7) Persons who successfully challenge the competency test for basic training are fully exempt from the basic training requirements of this section. Persons who successfully challenge the specialty training competency test are fully exempt from the specialty training requirements of this section.

(8)(a) Registered nurses and licensed practical nurses licensed under chapter 18.79 RCW are exempt from any continuing education requirement established under this section.

(b) The department may adopt rules that would exempt licensed persons from all or part of the training requirements under this chapter, if they are (i) performing the tasks for which they are licensed and (ii) subject to chapter 18.130 RCW.

(9) In an effort to improve access to training and education and reduce costs, especially for rural communities, the coordinated system of long-term care training and education must include the use of innovative types of learning strategies such as internet resources, videotapes, and distance learning using satellite technology coordinated through community colleges or other entities, as defined by the department.

(10) The department shall develop criteria for the approval of orientation, basic training, and specialty training programs.

(11) Assisted living facilities that desire to deliver facility-based training with facility designated trainers, or assisted living facilities that desire to pool their resources to create shared training systems, must be encouraged by the department in their

efforts. The department shall develop criteria for reviewing and approving trainers and training materials that are substantially similar to or better than the materials developed by the department. The department may approve a curriculum based upon attestation by an assisted living facility administrator that the assisted living facility's training curriculum addresses basic and specialty training competencies identified by the department, and shall review a curriculum to verify that it meets these requirements. The department may conduct the review as part of the next regularly scheduled yearly inspection and investigation required under RCW 18.20.110. The department shall rescind approval of any curriculum if it determines that the curriculum does not meet these requirements.

(12) The department shall adopt rules for the implementation of this section.

(13)(a) Except as provided in (b) of this subsection, the orientation, basic training, specialty training, and continuing education requirements of this section commence September 1, 2002, or one hundred twenty days from the date of employment, whichever is later, and shall be applied to (i) employees hired subsequent to September 1, 2002; and (ii) existing employees that on September 1, 2002, have not successfully completed the training requirements under RCW 74.39A.010 or 74.39A.020 and this section. Existing employees who have not successfully completed the training requirements under RCW 74.39A.010 or 74.39A.020 shall be subject to all applicable requirements of this section.

(b) Beginning January 7, 2012, long-term care workers, as defined in RCW 74.39A.009, employed by facilities licensed under this chapter are also subject to the training requirements under RCW 74.39A.074.

(14) If a pandemic, natural disaster, or other declared state of emergency makes specialty training unavailable, the department may adopt rules to allow an assisted living facility where the administrator, designee, and caregiving staff have not completed specialty training to admit a resident or residents with special needs related to mental illness, dementia, or a developmental disability. Such rules must include information about how to complete the specialty training once the training is available.

(a) Rules adopted under this subsection (14) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that providers and resident managers who were unable to complete the specialty training required in subsection (5)(b) of this section have had adequate access to complete the required training, whichever is later. Once the department determines a rule adopted under this subsection (14) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of training compliance with subsection (5)(b) of this section and provide the legislature with a report.

**Sec. 13.** RCW 70.128.070 and 2011 1st sp.s. c 3 s 204 are each amended to read as follows:

(1) A license shall remain valid unless voluntarily surrendered, suspended, or revoked in accordance with this chapter.

(2)(a) Homes applying for a license shall be inspected at the time of licensure.

(b) Homes licensed by the department shall be inspected at least every eighteen months, with an annual average of fifteen months. However, an adult family home may be allowed to continue without inspection for two years if the adult family home had no inspection citations for the past three consecutive inspections and has received no written notice of violations



resulting from complaint investigations during that same time period.

(c) The department may make an unannounced inspection of a licensed home at any time to assure that the home and provider are in compliance with this chapter and the rules adopted under this chapter.

(d) If a pandemic, natural disaster, or other declared state of emergency prevents the department from completing inspections according to the timeline in this subsection, the department shall adopt rules to reestablish inspection timelines based on the length of time since last inspection, compliance history of each facility, and immediate health or safety concerns.

(i) Rules adopted under this subsection (2)(d) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all facility inspections are occurring according to time frames established in (b) of this subsection, whichever is later. Once the department determines a rule adopted under this subsection (2)(d) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(ii) Within 12 months of the termination of the pandemic, natural disaster, or declared state of emergency, the department shall conduct a review of inspection compliance with (b) of this subsection and provide the legislature with a report.

(3) If the department finds that the home is not in compliance with this chapter, it shall require the home to correct any violations as provided in this chapter.

**Sec. 14.** RCW 70.97.160 and 2020 c 278 s 9 are each amended to read as follows:

(1) The department shall make or cause to be made at least one inspection of each facility prior to licensure and an unannounced full inspection of facilities at least once every eighteen months. The statewide average interval between full facility inspections must be fifteen months.

(2) Any duly authorized officer, employee, or agent of the department may enter and inspect any facility at any time to determine that the facility is in compliance with this chapter and applicable rules, and to enforce any provision of this chapter. Complaint inspections shall be unannounced and conducted in such a manner as to ensure maximum effectiveness. No advance notice shall be given of any inspection unless authorized or required by federal law.

(3) During inspections, the facility must give the department access to areas, materials, and equipment used to provide care or support to residents, including resident and staff records, accounts, and the physical premises, including the buildings, grounds, and equipment. The department has the authority to privately interview the provider, staff, residents, and other individuals familiar with resident care and service plans.

(4) Any public employee giving advance notice of an inspection in violation of this section shall be suspended from all duties without pay for a period of not less than five nor more than fifteen days.

(5) The department shall prepare a written report describing the violations found during an inspection, and shall provide a copy of the inspection report to the facility.

(6) The facility shall develop a written plan of correction for any violations identified by the department and provide a plan of correction to the department within ten working days from the receipt of the inspection report.

(7) If a pandemic, natural disaster, or other declared state of emergency prevents the department from completing inspections according to the timeline in this section, the department shall adopt rules to reestablish inspection timelines based on the length

of time since last inspection, compliance history of each facility, and immediate health or safety concerns.

(a) Rules adopted under this subsection (7) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all facility inspections are occurring according to time frames established in subsection (1) of this section, whichever is later. Once the department determines a rule adopted under this subsection (7) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of inspection compliance with subsection (1) of this section and provide the legislature with a report.

**Sec. 15.** RCW 18.20.110 and 2012 c 10 s 6 are each amended to read as follows:

(1) The department shall make or cause to be made, at least every eighteen months with an annual average of fifteen months, an inspection and investigation of all assisted living facilities. However, the department may delay an inspection to twenty-four months if the assisted living facility has had three consecutive inspections with no written notice of violations and has received no written notice of violations resulting from complaint investigation during that same time period. The department may at anytime make an unannounced inspection of a licensed facility to assure that the licensee is in compliance with this chapter and the rules adopted under this chapter. Every inspection shall focus primarily on actual or potential resident outcomes, and may include an inspection of every part of the premises and an examination of all records, methods of administration, the general and special dietary, and the stores and methods of supply; however, the department shall not have access to financial records or to other records or reports described in RCW 18.20.390. Financial records of the assisted living facility may be examined when the department has reasonable cause to believe that a financial obligation related to resident care or services will not be met, such as a complaint that staff wages or utility costs have not been paid, or when necessary for the department to investigate alleged financial exploitation of a resident. Following such an inspection or inspections, written notice of any violation of this law or the rules adopted hereunder shall be given to the applicant or licensee and the department. The department may prescribe by rule that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition, or new construction, submit plans and specifications therefor to the agencies responsible for plan reviews for preliminary inspection and approval or recommendations with respect to compliance with the rules and standards herein authorized.

(2) If a pandemic, natural disaster, or other declared state of emergency prevents the department from completing inspections according to the timeline in subsection (1) of this section, the department shall adopt rules to reestablish inspection timelines based on the length of time since last inspection, compliance history of each facility, and immediate health or safety concerns.

(a) Rules adopted under this subsection (2) are effective until the termination of the pandemic, natural disaster, or other declared state of emergency or until the department determines that all facility inspections are occurring according to time frames established in subsection (1) of this section, whichever is later. Once the department determines a rule adopted under this subsection (2) is no longer necessary, it must repeal the rule under RCW 34.05.353.

(b) Within 12 months of the termination of the pandemic, natural disaster, or other declared state of emergency, the department shall conduct a review of inspection compliance with subsection (1) of this section and provide the legislature with a report.

**Sec. 16.** RCW 18.88A.030 and 2010 c 169 s 4 are each amended to read as follows:

(1)(a) A nursing assistant may assist in the care of individuals as delegated by and under the direction and supervision of a licensed (registered) nurse or licensed practical nurse.

(b) A health care facility shall not assign a nursing assistant-registered to provide care until the nursing assistant-registered has demonstrated skills necessary to perform competently all assigned duties and responsibilities.

(c) Nothing in this chapter shall be construed to confer on a nursing assistant the authority to administer medication unless delegated as a specific nursing task pursuant to this chapter or to practice as a licensed (registered) nurse or licensed practical nurse as defined in chapter 18.79 RCW.

(2)(a) A nursing assistant employed in a nursing home must have successfully obtained certification through: (i) An approved training program and the competency evaluation within ~~((four months after the date of employment))~~ a period of time determined in rule by the commission; or (ii) alternative training and the competency evaluation prior to employment.

(b) Certification is voluntary for nursing assistants working in health care facilities other than nursing homes unless otherwise required by state or federal law or regulation.

(3) The commission may adopt rules to implement the provisions of this chapter.

**Sec. 17.** RCW 18.88A.087 and 2010 c 169 s 3 are each amended to read as follows:

(1) The commission shall adopt criteria for evaluating an applicant's alternative training to determine the applicant's eligibility to take the competency evaluation for nursing assistant certification. At least one option adopted by the commission must allow an applicant to take the competency evaluation if he or she:

(a)(i) Is a certified home care aide pursuant to chapter 18.88B RCW; or

(ii) Is a certified medical assistant pursuant to a certification program accredited by a national medical assistant accreditation organization and approved by the commission; and

(b) Has successfully completed at least twenty-four hours of training that the commission determines is necessary to provide training equivalent to approved training on topics not addressed in the training specified for certification as a home care aide or medical assistant, as applicable. In the commission's discretion, a portion of these hours may include clinical training.

(2)(a) ~~((By July 1, 2011, the))~~ The commission, in consultation with the secretary, the department of social and health services, and consumer, employer, and worker representatives, shall adopt rules to implement this section and to provide~~((beginning January 1, 2012,))~~ for a program of credentialing reciprocity to the extent required by this section between home care aide and medical assistant certification and nursing assistant certification. ~~((By July 1, 2011, the))~~ The secretary shall also adopt such rules as may be necessary to implement this section and the credentialing reciprocity program.

(b) Rules adopted under this section must be consistent with requirements under 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act relating to state-approved competency evaluation programs for certified nurse aides.

(3) ~~((Beginning December 1, 2012, the))~~ The secretary, in consultation with the commission, shall report annually by December 1st to the governor and the appropriate committees of

the legislature on the progress made in achieving career advancement for certified home care aides and medical assistants into nursing practice.

**NEW SECTION. Sec. 18.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

**NEW SECTION. Sec. 19.** This act is remedial and curative in nature and all of its sections apply retroactively to February 29, 2020, to include the period of the state of emergency created by the COVID-19 outbreak. In any instance where this act grants rule-making authority to the department of social and health services or the department of health, the agencies may adopt the rules as emergency rules and may make the rules retroactively effective."

On page 1, line 2 of the title, after "supports;" strike the remainder of the title and insert "amending RCW 43.43.832, 43.43.837, 74.39A.056, 18.51.091, 18.51.230, 74.42.360, 74.39A.074, 74.39A.076, 74.39A.341, 18.88B.021, 70.128.230, 18.20.270, 70.128.070, 70.97.160, 18.20.110, 18.88A.030, and 18.88A.087; creating a new section; and declaring an emergency."

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Wagoner and without objection, floor amendment no. 722 by Senator Wagoner on page 9, line 20 to Engrossed Substitute House Bill No. 1120 was withdrawn.

#### WITHDRAWAL OF AMENDMENT

On motion of Senator Rivers and without objection, floor amendment no. 721 by Senator Rivers on page 9, line 34 to Engrossed Substitute House Bill No. 1120 was withdrawn.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Health & Long Term Care to Engrossed Substitute House Bill No. 1120.

The motion by Senator Cleveland carried and the committee striking amendment was adopted by voice vote.

#### MOTION

On motion of Senator Cleveland, the rules were suspended, Engrossed Substitute House Bill No. 1120 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Cleveland 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 House Bill No. 1120.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1120 and the bill passed the Senate by the following vote: Yeas, 49; Nays, 0; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Braun, Brown, Carlyle, Cleveland, Conway, Darneille, Das, Dhinra, Dozier, Erickson, Fortunato, Frockt, Gildon, Hasegawa, Hawkins, Hobbs, Holy, Honeyford, Hunt, Keiser, King, Kuderer, Lias, 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.

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1120, 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

HOUSE BILL NO. 1316, by Representatives Cody, Macri, Duerr, Santos, Bateman and Lekanoff

Concerning the hospital safety net assessment.

The measure was read the second time.

MOTION

Senator Rolfes moved that the following committee striking amendment by the Committee on Ways & Means be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 74.60.005 and 2019 c 318 s 1 are each amended to read as follows:

(1) The purpose of this chapter is to provide for a safety net assessment on certain Washington hospitals, which will be used solely to augment funding from all other sources and thereby support additional payments to hospitals for medicaid services as specified in this chapter.

(2) The legislature finds that federal health care reform will result in an expansion of medicaid enrollment in this state and an increase in federal financial participation.

(3) In adopting this chapter, it is the intent of the legislature:

(a) To impose a hospital safety net assessment to be used solely for the purposes specified in this chapter;

(b) To generate approximately one billion dollars per state fiscal biennium in new state and federal funds by disbursing all of that amount to pay for medicaid hospital services and grants to certified public expenditure and critical access hospitals, except costs of administration as specified in this chapter, in the form of additional payments to hospitals and managed care plans, which may not be a substitute for payments from other sources, but which include quality improvement incentive payments under RCW 74.09.611;

(c) To generate two hundred ninety-two million dollars per biennium during the ~~((2019-2021 and))~~ 2021-2023 and 2023-2025 biennia in new funds to be used in lieu of state general fund payments for medicaid hospital services;

(d) That the total amount assessed not exceed the amount needed, in combination with all other available funds, to support the payments authorized by this chapter;

(e) To condition the assessment on receiving federal approval for receipt of additional federal financial participation and on continuation of other funding sufficient to maintain aggregate payment levels to hospitals for inpatient and outpatient services covered by medicaid, including fee-for-service and managed care, at least at the rates the state paid for those services on July 1, 2015, as adjusted for current enrollment and utilization; and

(f) For each of the two biennia starting with fiscal year ~~((2020))~~ 2022 to generate:

(i) Four million dollars for new integrated evidence-based psychiatry residency program slots that did not receive state

funding prior to 2016 at the integrated psychiatry residency program at the University of Washington; and

(ii) Eight million two hundred thousand dollars for family medicine residency program slots that did not receive state funding prior to 2016, as directed through the family medicine residency network at the University of Washington, for slots where residents are employed by hospitals.

Sec. 2. RCW 74.60.020 and 2019 c 318 s 3 are each amended to read as follows:

(1) A dedicated fund is hereby established within the state treasury to be known as the hospital safety net assessment fund. The purpose and use of the fund shall be to receive and disburse funds, together with accrued interest, in accordance with this chapter. Moneys in the fund, including interest earned, shall not be used or disbursed for any purposes other than those specified in this chapter. Any amounts expended from the fund that are later recouped by the authority on audit or otherwise shall be returned to the fund.

(a) Any unexpended balance in the fund at the end of a fiscal year shall carry over into the following fiscal year or that fiscal year and the following fiscal year and shall be applied to reduce the amount of the assessment under RCW 74.60.050(1)(c).

(b) Any amounts remaining in the fund after July 1, ~~((2023))~~ 2025, shall be refunded to hospitals, pro rata according to the amount paid by the hospital since July 1, 2013, subject to the limitations of federal law.

(2) All assessments, interest, and penalties collected by the authority under RCW 74.60.030 and 74.60.050 shall be deposited into the fund.

(3) Disbursements from the fund are conditioned upon appropriation and the continued availability of other funds sufficient to maintain aggregate payment levels to hospitals for inpatient and outpatient services covered by medicaid, including fee-for-service and managed care, at least at the levels the state paid for those services on July 1, 2015, as adjusted for current enrollment and utilization.

(4) Disbursements from the fund may be made only:

(a) To make payments to hospitals and managed care plans as specified in this chapter;

(b) To refund erroneous or excessive payments made by hospitals pursuant to this chapter;

(c) For one million dollars per biennium for payment of administrative expenses incurred by the authority in performing the activities authorized by this chapter;

(d) For two hundred ninety-two million dollars per biennium, to be used in lieu of state general fund payments for medicaid hospital services, provided that if the full amount of the payments required under RCW 74.60.120 and 74.60.130 cannot be distributed in a given fiscal year, this amount must be reduced proportionately;

(e) To repay the federal government for any excess payments made to hospitals from the fund if the assessments or payment increases set forth in this chapter are deemed out of compliance with federal statutes and regulations in a final determination by a court of competent jurisdiction with all appeals exhausted. In such a case, the authority may require hospitals receiving excess payments to refund the payments in question to the fund. The state in turn shall return funds to the federal government in the same proportion as the original financing. If a hospital is unable to refund payments, the state shall develop either a payment plan, or deduct moneys from future medicaid payments, or both;

(f) To pay an amount sufficient, when combined with the maximum available amount of federal funds necessary to provide a one percent increase in medicaid hospital inpatient rates to

hospitals eligible for quality improvement incentives under RCW 74.09.611. By May 16, 2018, and by each May 16 thereafter, the authority, in cooperation with the department of health, must verify that each hospital eligible to receive quality improvement incentives under the terms of this chapter is in substantial compliance with the reporting requirements in RCW 43.70.052 and 70.01.040 for the prior period. For the purposes of this subsection, "substantial compliance" means, in the prior period, the hospital has submitted at least nine of the twelve monthly reports by the due date. The authority must distribute quality improvement incentives to hospitals that have met these requirements beginning July 1 of 2018 and each July 1 thereafter; and

(g) For each state fiscal year (~~(2020)~~ 2022 through (~~(2023)~~ 2025 to generate:

(i) Two million dollars for integrated evidence-based psychiatry residency program slots that did not receive state funding prior to 2016 at the integrated psychiatry residency program at the University of Washington; and

(ii) Four million one hundred thousand dollars for family medicine residency program slots that did not receive state funding prior to 2016, as directed through the family medicine residency network at the University of Washington, for slots where residents are employed by hospitals.

**Sec. 3.** RCW 74.60.090 and 2019 c 318 s 6 are each amended to read as follows:

(1) In each fiscal year commencing upon satisfaction of the applicable conditions in RCW 74.60.150(1), funds must be disbursed from the fund and the authority shall make grants to certified public expenditure hospitals, which shall not be considered payments for hospital services, as follows:

(a) University of Washington medical center: (~~Ten million five hundred fifty five thousand dollars in state fiscal year 2020 and up~~) Up to twelve million fifty-five thousand dollars in state fiscal year (~~(2024)~~ 2022 through (~~(2023)~~ 2025 paid as follows, except if the full amount of the payments required under RCW 74.60.120(1) and 74.60.130 cannot be distributed in a given fiscal year, the amounts in this subsection must be reduced proportionately:

(i) (~~Four~~) Five million (~~four~~) nine hundred fifty-five thousand dollars in state fiscal years (~~(2020)~~ 2022 through (~~(2023)~~, except that from state fiscal year 2021 through 2023, if northwest hospital is ineligible to participate in this chapter as a prospective payment hospital, the amount per state fiscal year must be five million nine hundred fifty five thousand dollars)) 2025;

(ii) Two million dollars to integrated, evidence-based psychiatry residency program slots that did not receive state funding prior to 2016, at the integrated psychiatry residency program at the University of Washington; and

(iii) Four million one hundred thousand dollars to family medicine residency program slots that did not receive state funding prior to 2016, as directed through the family medicine residency network at the University of Washington, for slots where residents are employed by hospitals;

(b) Harborview medical center: Ten million two hundred sixty thousand dollars in each state fiscal year (~~(2020)~~ 2022 through (~~(2023)~~ 2025, except if the full amount of the payments required under RCW 74.60.120(1) and 74.60.130 cannot be distributed in a given fiscal year, the amounts in this subsection must be reduced proportionately;

(c) All other certified public expenditure hospitals: Five million six hundred fifteen thousand dollars in each state fiscal year (~~(2020)~~ 2022 through (~~(2023)~~ 2025, except if the full amount of the payments required under RCW 74.60.120(1) and 74.60.130

cannot be distributed in a given fiscal year, the amounts in this subsection must be reduced proportionately. The amount of payments to individual hospitals under this subsection must be determined using a methodology that provides each hospital with a proportional allocation of the group's total amount of medicaid and state children's health insurance program payments determined from claims and encounter data using the same general methodology set forth in RCW 74.60.120 (3) and (4).

(2) Payments must be made quarterly, before the end of each quarter, taking the total disbursement amount and dividing by four to calculate the quarterly amount. The authority shall provide a quarterly report of such payments to the Washington state hospital association.

**Sec. 4.** RCW 74.60.901 and 2019 c 318 s 8 are each amended to read as follows:

This chapter expires July 1, (~~(2023)~~ 2025."

On page 1, line 1 of the title, after "assessment;" strike the remainder of the title and insert "amending RCW 74.60.005, 74.60.020, 74.60.090, and 74.60.901; and providing an expiration date."

Senator Rolfes spoke in favor of adoption of the committee striking amendment.

The President declared the question before the Senate to be the adoption of the committee striking amendment by the Committee on Ways & Means to House Bill No. 1316.

The motion by Senator Rolfes carried and the committee striking amendment was adopted by voice vote.

#### MOTION

On motion of Senator Rolfes, the rules were suspended, House Bill No. 1316, as amended by the Senate, was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Rolfes and Wilson, L. spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of House Bill No. 1316 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1316, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 47; Nays, 2; Absent, 0; Excused, 0.

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, Pedersen, Randall, Rivers, Robinson, Rolfes, Saldaña, Salomon, Schoesler, Sheldon, Short, Stanford, Van De Wege, Wagoner, Warnick, Wellman, Wilson, C., Wilson, J. and Wilson, L.

Voting nay: Senators Ericksen and Padden

HOUSE BILL NO. 1316, as amended by the Senate, 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

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO.

1477, by House Committee on Appropriations (originally sponsored by Orwall, Davis, Ortiz-Self, Callan, Simmons, J. Johnson, Goodman, Ryu, Ormsby, Valdez, Frame, Berg, Bergquist, Harris-Talley, Chopp, Macri, Peterson and Pollet)

Implementing the national 988 system to enhance and expand behavioral health crisis response and suicide prevention services.

The measure was read the second time.

MOTION

Senator Dhingra moved that the following committee striking amendment by the Committee on Ways & Means be not adopted:

Strike everything after the enacting clause and insert the following:

"PART I

**CRISIS CALL CENTER HUBS AND CRISIS SERVICES**

NEW SECTION. **Sec. 101.** (1) The legislature finds that:

(a) Nearly 6,000 Washington adults and children died by suicide in the last five years, according to the federal centers for disease control and prevention, tragically reflecting a state increase of 36 percent in the last 10 years.

(b) Suicide is now the single leading cause of death for Washington young people ages 10 through 24, with total deaths 22 percent higher than for vehicle crashes.

(c) Groups with suicide rates higher than the general population include veterans, American Indians/Alaska Natives, LGBTQ youth, and people living in rural counties across the state.

(d) More than one in five Washington residents are currently living with a behavioral health disorder.

(e) The COVID-19 pandemic has increased stressors and substance use among Washington residents.

(f) An improved crisis response system will reduce reliance on emergency room services and the use of law enforcement response to behavioral health crises and will stabilize individuals in the community whenever possible.

(g) To accomplish effective crisis response and suicide prevention, Washington state must continue its integrated approach to address mental health and substance use disorder in tandem under the umbrella of behavioral health disorders, consistently with chapter 71.24 RCW and the state's approach to integrated health care. This is particularly true in the domain of suicide prevention, because of the prevalence of substance use as both a risk factor and means for suicide.

(2) The legislature intends to:

(a) Establish crisis call center hubs and expand the crisis response system in a deliberate, phased approach that includes the involvement of partners from a range of perspectives to:

(i) Save lives by improving the quality of and access to behavioral health crisis services;

(ii) Further equity in addressing mental health and substance use treatment and assure a culturally and linguistically competent response to behavioral health crises;

(iii) Recognize that, historically, crisis response placed marginalized communities, including those experiencing behavioral health crises, at disproportionate risk of poor outcomes and criminal justice involvement;

(iv) Comply with the national suicide hotline designation act of 2020 and the federal communications commission's rules adopted July 16, 2020, to assure that all Washington residents receive a consistent and effective level of 988 suicide prevention and other

behavioral health crisis response services no matter where they live, work, or travel in the state; and

(v) Provide higher quality support for people experiencing behavioral health crises through investment in new technology to create a crisis call center hub system to triage calls and link individuals to follow-up care.

(b) Make additional investments to enhance the crisis response system, including the expansion of crisis teams, to be known as mobile rapid response crisis teams, and deployment of a wide array of crisis stabilization services, such as 23-hour crisis stabilization units based on the living room model, crisis stabilization centers, short-term respite facilities, peer-run respite centers, and same-day walk-in behavioral health services. The overall crisis system shall contain components that operate like hospital emergency departments that accept all walk-ins and ambulance, fire, and police drop-offs. Certified peer counselors as well as peers in other roles providing support must be incorporated within the crisis system and along the continuum of crisis care.

NEW SECTION. **Sec. 102.** A new section is added to chapter 71.24 RCW to read as follows:

(1) Establishing the state crisis call center hubs and enhancing the crisis response system will require collaborative work between the department and the authority within their respective roles. The department shall have primary responsibility for establishing and designating the crisis call center hubs. The authority shall have primary responsibility for developing and implementing the crisis response system and services to support the work of the crisis call center hubs. In any instance in which one agency is identified as the lead, the expectation is that agency will be communicating and collaborating with the other to ensure seamless, continuous, and effective service delivery within the statewide crisis response system.

(2) The department shall provide adequate funding for the state's crisis call centers to meet an expected increase in the use of the call centers based on the implementation of the 988 crisis hotline. The funding level shall be established at a level anticipated to achieve an in-state call response rate of at least 90 percent by July 22, 2022, and an in-state call response rate of at least 95 percent by July 1, 2023. The funding level shall be determined by considering standards and cost per call predictions provided by the administrator of the national suicide prevention lifeline, call volume predictions, guidance on crisis call center performance metrics, and necessary technology upgrades.

(3) The department shall adopt rules by July 1, 2023, to establish standards for designation of crisis call centers as crisis call center hubs. The department shall collaborate with the authority and other agencies to assure coordination and availability of services, and shall consider national guidelines for behavioral health crisis care as determined by the federal substance abuse and mental health services administration, national behavioral health accrediting bodies, and national behavioral health provider associations to the extent they are appropriate, and recommendations from the crisis response improvement strategy committee created in section 103 of this act.

(4) The department shall designate crisis call center hubs by July 1, 2024. The crisis call center hubs shall provide crisis intervention services, triage, care coordination, referrals, and connections to individuals contacting the 988 crisis hotline from any jurisdiction within Washington 24 hours a day, seven days a week, using the system platform developed under subsection (5) of this section.

(a) To be designated as a crisis call center hub, the applicant must demonstrate to the department the ability to comply with the requirements of this section and to contract with the department to provide crisis call center hub services. The department may revoke the designation of any crisis call center hub that fails to substantially comply with the contract.

(b) The contracts entered by the department shall require designated crisis call center hubs to:

(i) Have an active agreement with the administrator of the national suicide prevention lifeline for participation within its network;

(ii) Meet the requirements for operational and clinical standards established by the department and based upon the national suicide prevention lifeline best practices guidelines and other recognized best practices;

(iii) Employ highly skilled and trained clinical staff with at least a bachelors or masters level of education, as appropriate, who have sufficient training and resources to provide empathy to callers in acute distress, de-escalate crises, assess behavioral health disorders and suicide risk, triage to system partners, and provide case management and documentation. Call center staff shall be trained to make every effort to resolve cases in the least restrictive environment and without law enforcement involvement whenever possible. Call center staff shall coordinate with certified peer counselors to provide follow-up and outreach to callers in distress as available. It is intended for transition planning to include a pathway for continued employment and skill advancement as needed for experienced crisis call center employees;

(iv) Collaborate with the authority, the national suicide prevention lifeline, and veterans crisis line networks to assure consistency of public messaging about the 988 crisis hotline; and

(v) Provide data and reports and participate in evaluations and related quality improvement activities, according to standards established by the department in collaboration with the authority.

(c) The department shall incorporate recommendations from the crisis response improvement strategy committee created under section 103 of this act in its agreements with crisis call center hubs, as appropriate.

(5) The department shall develop a new technologically advanced behavioral health crisis call center system platform using technology demonstrated to be interoperable across crisis and emergency response systems used throughout the state, such as 911 systems, emergency medical services systems, and other nonbehavioral health crisis services, for use in crisis call center hubs designated by the department under subsection (4) of this section. This platform, which shall be fully funded by July 1, 2023, must include the capacity to receive crisis assistance requests through phone calls, texts, chats, and other similar methods of communication that may be developed in the future that promote access to the behavioral health crisis system. The platform must have the following capacities:

(a) To access real-time information relevant to the coordination of behavioral health crisis response services provided by the behavioral health integrated client reference system developed under subsection (7) of this section;

(b) Request deployment of appropriate crisis response services, which may include mobile rapid response crisis teams, coresponder teams, designated crisis responders, mobile integrated health teams, or community assistance referral and educational services programs under RCW 35.21.930, according to best practice guidelines established by the authority, and track local response through global positioning technology; and

(c) Track the outcome of the 988 call to enable appropriate follow up, cross-system coordination, and accountability,

including as appropriate: (i) Any immediate services dispatched and reports generated from the encounter; (ii) the contents of the safety plan established for the caller; (iii) the next steps for the caller to follow in transition to noncrisis follow-up care, including a next-day appointment for callers experiencing urgent, symptomatic behavioral health care needs; and (iv) the means to verify and document whether the caller was successful in making the transition to appropriate noncrisis follow-up care indicated in the safety plan for the person, to be completed either by the care coordinator provided through the person's managed care organization, health plan, or behavioral health administrative services organization, or if such a care coordinator is not available or does not follow through, by the staff of the crisis call center hub.

(6) To implement this section the department shall collaborate with the state enhanced 911 coordination office, emergency management division, and military department to develop technology that is demonstrated to be interoperable between the 988 crisis hotline system and crisis and emergency response systems used throughout the state, such as 911 systems, emergency medical services systems, and other nonbehavioral health crisis services, as well as the national suicide prevention lifeline, to assure cohesive interoperability, develop training programs and operations for both 911 public safety telecommunicators and crisis line workers, develop suicide and other behavioral health crisis assessments and intervention strategies, and establish efficient and equitable access to resources via crisis hotlines.

(7) The authority shall develop a behavioral health integrated client reference system capable of providing system coordination information to crisis call center hubs and to other entities involved in behavioral health care, at a time to be determined by the crisis response improvement strategy committee created under section 103 of this act. The system must include the capacity to provide the following:

(a) Real-time bed availability for all behavioral health bed types, including but not limited to crisis stabilization services, triage facilities, psychiatric inpatient, substance use disorder inpatient, withdrawal management, peer-run respite centers, and crisis respite services, inclusive of both voluntary and involuntary beds, for use by crisis response workers, first responders, health care providers, and individuals in crisis;

(b) Real-time information relevant to the coordination of behavioral health crisis response services for a person, including the means to access: (i) Information about any less restrictive alternative treatment orders or mental health advance directives related to the person; and (ii) information necessary to enable the crisis call center hub to actively collaborate with primary care providers and behavioral health providers within managed care organizations, behavioral health administrative services organizations, and other health care payers to establish a safety plan for the person and provide the next steps for the person's transition to follow up noncrisis care. To establish information sharing guidelines that fulfill the intent of this section the authority shall consider input from the confidential information compliance and coordination subcommittee established under section 103 of this act;

(c) A means to facilitate actions to verify and document whether the person's transition to follow up noncrisis care was successful, to be performed by a care coordinator provided through the person's managed care organization, health plan, or behavioral health administrative services organization, or if such a care coordinator is not available or does not follow through, by the staff of the crisis call center hub; and

(d) The means to provide geographically, culturally, and linguistically appropriate services to persons who are part of high-risk populations or otherwise have need of specialized services or accommodations, and to document these services or accommodations.

(8) The authority shall:

(a) Collaborate with county authorities and behavioral health administrative services organizations to develop procedures to dispatch behavioral health crisis services in coordination with crisis call center hubs to effectuate the intent of this section;

(b) Establish formal agreements with managed care organizations and behavioral health administrative services organizations to provide for the services, capacities, and coordination necessary to effectuate the intent of this section, which shall include a requirement to arrange next-day appointments for persons contacting the 988 crisis hotline experiencing urgent, symptomatic behavioral health care needs with geographically, culturally, and linguistically appropriate primary care or behavioral health providers within the person's provider network, or, if uninsured, through the person's behavioral health administrative services organization;

(c) Create best practices guidelines by July 1, 2023, for deployment of appropriate and available crisis response services by crisis call center hubs to assist 988 hotline callers to minimize nonessential reliance on emergency room services and the use of law enforcement, considering input from relevant stakeholders and recommendations made by the crisis response improvement strategy committee created under section 103 of this act;

(d) Develop procedures to allow appropriate information sharing and communication between and across crisis and emergency response systems for the purpose of real-time crisis care coordination including, but not limited to, deployment of crisis and outgoing services, follow-up care, and linked, flexible services specific to crisis response; and

(e) Establish guidelines to appropriately serve high-risk populations who request crisis services. The authority shall design these guidelines to promote behavioral health equity for all populations with attention to circumstances of race, ethnicity, gender, socioeconomic status, sexual orientation, and geographic location, and include components such as training requirements for call response workers, policies for transferring such callers to an appropriate specialized center or subnetwork within or external to the national suicide prevention lifeline network, and procedures for referring persons who access the 988 crisis hotline to linguistically and culturally competent care.

**NEW SECTION. Sec. 103.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The crisis response improvement strategy committee is established for the purpose of developing an integrated behavioral health crisis response system containing the elements described in this section.

(2) The office of financial management shall contract with the behavioral health institute at Harborview medical center to facilitate and provide staff support to the crisis response improvement strategy committee.

(3) The crisis response improvement strategy committee shall have three cochairs selected from among the members of the steering committee. The crisis response improvement strategy committee shall consist of the following members, who shall be appointed or requested by the authority, unless otherwise noted:

(a) The director of the authority, or his or her designee, who shall also serve on the steering committee;

(b) The secretary of the department, or his or her designee, who shall also serve on the steering committee;

(c) A member representing the office of the governor, who shall also serve on the steering committee;

(d) The Washington state insurance commissioner, or his or her designee;

(e) Up to two members representing federally recognized tribes, one from eastern Washington and one from western Washington, who have expertise in behavioral health needs of their communities;

(f) One member from each of the two largest caucuses of the senate, one of whom shall also be designated to participate on the steering committee, to be appointed by the president of the senate;

(g) One member from each of the two largest caucuses of the house of representatives, one of whom shall also be designated to participate on the steering committee, to be appointed by the speaker of the house of representatives;

(h) The director of the Washington state department of veterans affairs, or his or her designee;

(i) The state enhanced 911 coordinator, or his or her designee;

(j) A member with lived experience of a suicide attempt;

(k) A member with lived experience of a suicide loss;

(l) A member with experience of participation in the crisis system related to lived experience of a mental health disorder;

(m) A member with experience of participation in the crisis system related to lived experience with a substance use disorder;

(n) A member representing each crisis call center in Washington that is contracted with the national suicide prevention lifeline;

(o) Up to two members representing behavioral health administrative services organizations, one from an urban region and one from a rural region;

(p) A member representing the Washington council for behavioral health;

(q) A member representing the association of alcoholism and addiction programs of Washington state;

(r) A member representing the Washington state hospital association;

(s) A member representing the national alliance on mental illness Washington;

(t) A member representing the behavioral health interests of persons of color recommended by Sea Mar community health centers;

(u) A member representing the behavioral health interests of persons of color recommended by Asian counseling and referral service;

(v) A member representing law enforcement;

(w) A member representing a university-based suicide prevention center of excellence;

(x) A member representing an emergency medical services department with a CARES program;

(y) A member representing medicaid managed care organizations, as recommended by the association of Washington healthcare plans;

(z) A member representing commercial health insurance, as recommended by the association of Washington healthcare plans;

(aa) A member representing the Washington association of designated crisis responders;

(bb) A member representing the children and youth behavioral health work group;

(cc) A member representing a social justice organization addressing police accountability and the use of deadly force; and

(dd) A member representing an organization specializing in facilitating behavioral health services for LGBTQ populations.

(4) The crisis response improvement strategy committee shall identify potential barriers and make recommendations necessary

to implement and effectively monitor the progress of the 988 crisis hotline in Washington and make recommendations for the statewide improvement of behavioral health crisis response services.

(5) The committee must develop a comprehensive assessment of the behavioral health crisis response services system by January 1, 2022, including an inventory of existing statewide and regional behavioral health crisis response and crisis stabilization services and resources, and taking into account capital projects which are planned and funded. The comprehensive assessment shall identify:

(a) Statewide and regional insufficiencies and gaps in behavioral health crisis response services and resources needed to meet population needs;

(b) Quantifiable goals for the provision of statewide and regional behavioral health crisis services and targeted deployment of resources, which consider factors such as reported rates of involuntary commitment detentions, single-bed certifications, suicide attempts and deaths, substance use disorder-related overdoses, overdose or withdrawal-related deaths, and incarcerations due to a behavioral health incident;

(c) A process for establishing outcome measures, benchmarks, and improvement targets, for the crisis response system; and

(d) Potential funding sources to provide statewide and regional behavioral health crisis services and resources.

(6) The committee, taking into account the comprehensive assessment work under subsection (5) of this section as it becomes available, shall discuss and report on the following:

(a) A recommended vision for an integrated crisis network in Washington that includes, but is not limited to: An integrated 988 crisis hotline and crisis call center hubs; mobile rapid response crisis teams; mobile crisis response units for youth, adult, and geriatric population; a range of crisis stabilization services; an integrated involuntary treatment system; access to peer-run services, including peer-run respite centers; adequate crisis respite services; and data resources;

(b) Recommendations to promote equity in services for individuals of diverse circumstances of culture, race, ethnicity, gender, socioeconomic status, sexual orientation, and for individuals in tribal, urban, and rural communities;

(c) Recommendations for a work plan with timelines to implement appropriate local responses to calls to the 988 crisis hotline within Washington in accordance with the time frames required by the national suicide hotline designation act of 2020;

(d) The necessary components of a new statewide, technologically advanced behavioral health crisis call center system with a platform, as described in section 102 of this act, for assigning and tracking response to behavioral health crisis calls and providing real-time bed and outpatient appointment availability to 988 operators, designated crisis responders, and other behavioral health crisis responders, which shall include but not be limited to:

(i) Identification of the components crisis call center hub staff need to effectively coordinate crisis response services and find available beds and available primary care and behavioral health outpatient appointments;

(ii) Evaluation of existing bed tracking models currently utilized by other states and identifying the model most suitable to Washington's crisis behavioral health system;

(iii) Evaluation of whether bed tracking will improve access to all behavioral health bed types and other impacts and benefits;

(iv) Exploration of how the bed tracking and outpatient appointment availability platform can facilitate more timely access to care and other impacts and benefits; and

(v) The necessary systems and capabilities that licensed or certified behavioral health agencies, behavioral health providers, and any other relevant parties will require to report, maintain, and update inpatient and residential bed and outpatient service availability in real-time to correspond with the crisis call center system platform identified in section 102 of this act;

(e) A work plan to establish the capacity for the crisis call center hubs to integrate Spanish language interpreters and Spanish-speaking call center staff into their operations, and to ensure the availability of resources to meet the unique needs of persons in the agricultural community who are experiencing mental health stresses, which explicitly addresses concerns regarding confidentiality;

(f) A work plan with timelines to enhance and expand the availability of community-based mobile rapid response crisis teams based in each region, including specialized teams as appropriate to respond to the unique needs of youth, including American Indian and Alaska Native youth and LGBTQ youth, and geriatric populations, including older adults of color and older adults with comorbid dementia;

(g) The identification of other personal and systemic behavioral health challenges which implementation of the 988 crisis hotline has the potential to address in addition to suicide response and behavioral health crises;

(h) The development of a plan for the statewide equitable distribution of crisis stabilization services, behavioral health beds, and peer-run respite services;

(i) Recommendations concerning how health plans, managed care organizations, and behavioral health administrative services organizations shall fulfill requirements to provide assignment of a care coordinator and to provide next-day appointments for enrollees who contact the behavioral health crisis system;

(j) Appropriate allocation of crisis system funding responsibilities among medicaid managed care organizations, commercial insurers, and behavioral health administrative services organizations;

(k) Recommendations for constituting a statewide behavioral health crisis response oversight board or similar structure for ongoing monitoring of the behavioral health crisis system and where this should be established; and

(l) Cost estimates for each of the components recommended by the crisis response improvement strategy committee.

(7) The crisis response improvement strategy committee shall have a steering committee consisting only of members appointed to the steering committee under this section. The steering committee shall convene the committee, select cochairs for the committee, form subcommittees and assign tasks to the subcommittees, and establish a schedule of meetings and their agendas.

(8) The crisis response improvement strategy committee shall have subcommittees to focus on discrete topics. The subcommittees may include participants who are not members of the committee, as needed to provide professional expertise and community perspectives. Each subcommittee shall have at least one member representing the interests of stakeholders in a rural community, at least one member representing the interests of stakeholders in an urban community, and at least one member representing the interests of youth stakeholders. The steering committee shall form the following subcommittees, and may form additional subcommittees at its discretion:

(a) A Washington tribal 988 subcommittee, which shall examine and make recommendations with respect to the needs of tribes related to the 988 system, and which shall include representation from the American Indian health commission;



(b) A credentialing and training subcommittee, to determine workforce needs and requirements necessary to implement this act;

(c) A technology subcommittee, to examine issues and requirements related to the technology needed to implement this act;

(d) A cross-system crisis response collaboration subcommittee, to examine and define the complementary roles and interactions between mobile rapid response crisis teams, designated crisis responders, law enforcement, emergency medical services teams, 911 and 988 operators, public and private health plans, behavioral health crisis response agencies, nonbehavioral health crisis response agencies, and others needed to implement this act;

(e) A confidential information compliance and coordination subcommittee, to examine issues relating to sharing and protection of health information needed to implement this act; and

(f) Any other subcommittee needed to facilitate the work of the committee, at the discretion of the steering committee.

(9) The proceedings of the crisis response improvement strategy committee must be open to the public and invite testimony from a broad range of perspectives. The crisis response improvement strategy committee shall seek input from tribes, veterans, the LGBTQ community, and communities of color to determine how well the crisis response system is currently working and ways to improve the crisis response system.

(10) Legislative members of the implementation coalition shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(11) The crisis response improvement strategy committee shall provide a progress report and the result of its comprehensive assessment under subsection (5) of this section to the governor and appropriate policy and fiscal committee of the legislature by January 1, 2022. The committee shall report its further progress and recommendations related to crisis call center hubs to the governor and appropriate policy and fiscal committees of the legislature by January 1, 2023. The committee shall provide its final report to the governor and the appropriate policy and fiscal committees of the legislature by January 1, 2024.

(12) This section expires June 30, 2024.

**NEW SECTION. Sec. 104.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The crisis response improvement strategy steering committee under section 103 of this act must monitor and make recommendations related to the funding of crisis response services out of the account created in section 205 of this act. The crisis response improvement strategy steering committee must analyze:

(a) The projected expenditures from the account created under section 205 of this act, taking into account call volume, utilization projections, and other operational impacts;

(b) The costs of providing statewide coverage of mobile rapid response crisis teams or other behavioral health first responder services recommended by the crisis response improvement strategy committee, based on 988 crisis hotline utilization and taking into account existing state and local funding;

(c) Potential options to reduce the tax imposed in section 202 of this act, given the expected level of costs related to infrastructure development and operational support of the 988 crisis hotline and crisis call center hubs; and

(d) The viability of providing funding for in-person mobile rapid response crisis services or other behavioral health first responder services recommended by the crisis response improvement strategy committee funded from the account created in section 205 of this act, given the expected revenues to the account and the level of expenditures required under (a) of this subsection.

(2) If the steering committee finds that funding in-person mobile rapid response crisis services or other behavioral health first responder services recommended by the crisis response improvement strategy committee is viable from the account given the level of expenditures necessary to support the infrastructure development and operational support of the 988 crisis hotline and crisis call center hubs, the steering committee must analyze options for the location and composition of such services given need and available resources with the requirement that funds from the account supplement, not supplant, existing behavioral health crisis funding.

(3) The work of the steering committee under this section must be facilitated by the behavioral health institute at Harborview medical center through its contract with the office of financial management under section 103 of this act with assistance provided by staff from senate committee services, the office of program research, and the office of financial management.

(4) The steering committee shall submit preliminary recommendations to the governor and the appropriate policy and fiscal committees of the legislature by January 1, 2022, and final recommendations to the governor and the appropriate policy and fiscal committees of the legislature by January 1, 2023.

(5) This section expires on July 1, 2023.

**NEW SECTION. Sec. 105.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The department and authority shall provide an annual report regarding the usage of the 988 crisis hotline, call outcomes, and the provision of crisis services inclusive of mobile rapid response crisis teams and crisis stabilization services. The report shall be submitted to the governor and the appropriate committees of the legislature each November beginning in 2023. The report shall include information on the fund deposits and expenditures of the account created in section 205 of this act.

(2) The department and authority shall coordinate with the department of revenue, and any other agency that is appropriated funding under the account created in section 205 of this act, to develop and submit information to the federal communications commission required for the completion of fee accountability reports pursuant to the national suicide hotline designation act of 2020.

(3) The joint legislative audit and review committee shall schedule an audit to begin after the full implementation of this act, to provide transparency as to how funds from the statewide 988 behavioral health crisis response and suicide prevention line account have been expended, and to determine whether funds used to provide acute behavioral health, crisis outreach, and stabilization services are being used to supplement services identified as baseline services in the comprehensive analysis provided under section 103 of this act, or to supplant baseline services. The committee shall provide a report by November 1, 2027, which includes recommendations as to the adequacy of the funding provided to accomplish the intent of the act and any other recommendations for alteration or improvement.

**NEW SECTION. Sec. 106.** A new section is added to chapter 48.43 RCW to read as follows:

Health plans issued or renewed on or after January 1, 2023, must make next-day appointments available to enrollees

experiencing urgent, symptomatic behavioral health conditions to receive covered behavioral health services. The appointment may be with a licensed provider other than a licensed behavioral health professional, as long as that provider is acting within their scope of practice. Need for urgent symptomatic care is associated with the presentation of behavioral health signs or symptoms that require immediate attention, but are not emergent.

**NEW SECTION. Sec. 107.** A new section is added to chapter 43.06 RCW to read as follows:

(1) The governor shall appoint a 988 hotline and behavioral health crisis system coordinator to provide project coordination and oversight for the implementation and administration of the 988 crisis hotline, other requirements of this act, and other projects supporting the behavioral health crisis system. The coordinator shall:

(a) Oversee the collaboration between the department of health and the health care authority in their respective roles in supporting the crisis call center hubs and providing the necessary support services for 988 callers;

(b) Ensure coordination and facilitate communication between stakeholders such as crisis call center hub contractors, behavioral health administrative service organizations, county authorities, other crisis hotline centers, managed care organizations, and, in collaboration with the state enhanced 911 coordination office, with 911 emergency communications systems;

(c) Review the adequacy and consistency of training for crisis call center personnel and, in coordination with the state enhanced 911 coordination office, for 911 operators with respect to their interactions with the crisis hotline center;

(d) Review contractual agreements between the department of health and crisis call center hubs and between the health care authority and managed care organizations and behavioral health administrative services organizations to ensure adequate requirements are established to support the behavioral health crisis system; and

(e) Coordinate implementation of other behavioral health initiatives among state agencies and educational institutions, as appropriate, including coordination of data between agencies.

(2) This section expires June 30, 2024.

## PART II TAX

**NEW SECTION. Sec. 201. DEFINITIONS.** (1) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(a) "988 crisis hotline" has the same meaning as in RCW 71.24.025.

(b) "Crisis call center hub" has the same meaning as in RCW 71.24.025.

(2) The definitions in RCW 82.14B.020 apply to this chapter.

**NEW SECTION. Sec. 202. TAX IMPOSED.** (1)(a) A statewide 988 behavioral health crisis response and suicide prevention line tax is imposed on the use of all radio access lines:

(i) By subscribers whose place of primary use is located within the state in the amount set forth in (a)(ii) of this subsection (1) per month for each radio access line. The tax must be uniform for each radio access line under this subsection (1); and

(ii) By consumers whose retail transaction occurs within the state in the amount set forth in this subsection (1)(a)(ii) per retail transaction. The amount of tax must be uniform for each retail transaction under this subsection (1) and is as follows:

(A) Beginning October 1, 2021, through December 31, 2022, the tax rate is 30 cents for each radio access line; and

(B) Beginning January 1, 2023, the tax rate is 50 cents for each radio access line.

(b) The tax imposed under this subsection (1) must be remitted to the department by radio communications service companies, including those companies that resell radio access lines, and sellers of prepaid wireless telecommunications service, on a tax return provided by the department. Tax proceeds must be deposited by the treasurer into the statewide 988 behavioral health crisis response and suicide prevention line account created in section 205 of this act.

(c) For the purposes of this subsection (1), the retail transaction is deemed to occur at the location where the transaction is sourced under RCW 82.32.520(3)(c).

(2) A statewide 988 behavioral health crisis response and suicide prevention line tax is imposed on all interconnected voice over internet protocol service lines in the state. The amount of tax must be uniform for each line and must be levied on no more than the number of voice over internet protocol service lines on an account that is capable of simultaneous unrestricted outward calling to the public switched telephone network. The tax imposed under this subsection (2) must be remitted to the department by interconnected voice over internet protocol service companies on a tax return provided by the department. The amount of tax for each interconnected voice over internet protocol service line whose place of primary use is located in the state is as follows:

(a) Beginning October 1, 2021, through December 31, 2022, the tax rate is 30 cents for an interconnected voice over internet protocol service line; and

(b) Beginning January 1, 2023, the tax rate is 50 cents for an interconnected voice over internet protocol service line.

(3) A statewide 988 behavioral health crisis response and suicide prevention line tax is imposed on all switched access lines in the state. The amount of tax must be uniform for each line and must be levied on no more than the number of switched access lines on an account that is capable of simultaneous unrestricted outward calling to the public switched telephone network. The tax imposed under this subsection (3) must be remitted to the department by local exchange companies on a tax return provided by the department. The amount of tax for each switched access line whose place of primary use is located in the state is as follows:

(a) Beginning October 1, 2021, through December 31, 2022, the tax rate is 30 cents for each switched access line; and

(b) Beginning January 1, 2023, the tax rate is 50 cents for each switched access line.

(4) Tax proceeds collected pursuant to this section must be deposited by the treasurer into the statewide 988 behavioral health crisis response and suicide prevention line account created in section 205 of this act.

**NEW SECTION. Sec. 203. COLLECTION OF TAX.** (1) Except as provided otherwise in subsection (2) of this section:

(a) The statewide 988 behavioral health crisis response and suicide prevention line tax on radio access lines must be collected from the subscriber by the radio communications service company, including those companies that resell radio access lines, providing the radio access line to the subscriber, and the seller of prepaid wireless telecommunications services.

(b) The statewide 988 behavioral health crisis response and suicide prevention line tax on interconnected voice over internet protocol service lines must be collected from the subscriber by the interconnected voice over internet protocol service company providing the interconnected voice over internet protocol service line to the subscriber.

(c) The statewide 988 behavioral health crisis response and suicide prevention line tax on switched access lines must be collected from the subscriber by the local exchange company.

(d) The amount of the tax must be stated separately on the billing statement which is sent to the subscriber.

(2)(a) The statewide 988 behavioral health crisis response and suicide prevention line tax imposed by this chapter must be collected from the consumer by the seller of a prepaid wireless telecommunications service for each retail transaction occurring in this state.

(b) The department must transfer all tax proceeds remitted by a seller under this subsection (2) to the statewide 988 behavioral health crisis response and suicide prevention line account created in section 205 of this act.

(c) The taxes required by this subsection to be collected by the seller must be separately stated in any sales invoice or instrument of sale provided to the consumer.

**NEW SECTION. Sec. 204. PAYMENT AND COLLECTION.** (1)(a) The statewide 988 behavioral health crisis response and suicide prevention line tax imposed by this chapter must be paid by the subscriber to the radio communications service company providing the radio access line, the local exchange company, or the interconnected voice over internet protocol service company providing the interconnected voice over internet protocol service line.

(b) Each radio communications service company, each local exchange company, and each interconnected voice over internet protocol service company, must collect from the subscriber the full amount of the taxes payable. The statewide 988 behavioral health crisis response and suicide prevention line tax required by this chapter to be collected by a company or seller, are deemed to be held in trust by the company or seller until paid to the department. Any radio communications service company, local exchange company, or interconnected voice over internet protocol service company that appropriates or converts the tax collected to its own use or to any use other than the payment of the tax to the extent that the money collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(2) If any radio communications service company, local exchange company, or interconnected voice over internet protocol service company fails to collect the statewide 988 behavioral health crisis response and suicide prevention line tax or, after collecting the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of its own act or the result of acts or conditions beyond its control, the company or seller is personally liable to the state for the amount of the tax, unless the company or seller has taken from the buyer in good faith documentation, in a form and manner prescribed by the department, stating that the buyer is not a subscriber or consumer or is otherwise not liable for the statewide 988 behavioral health crisis response and suicide prevention line tax.

(3) The amount of tax, until paid by the subscriber to the radio communications service company, local exchange company, the interconnected voice over internet protocol service company, or to the department, constitutes a debt from the subscriber to the company, or from the consumer to the seller. Any company or seller that fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any subscriber or consumer who refuses to pay any tax due under this chapter is guilty of a misdemeanor. The statewide 988 behavioral health crisis response and suicide prevention line tax required by this chapter to be collected by the radio communications service company, local exchange company, or interconnected voice over

internet protocol service company must be stated separately on the billing statement that is sent to the subscriber.

(4) If a subscriber has failed to pay to the radio communications service company, local exchange company, or interconnected voice over internet protocol service company, the statewide 988 behavioral health crisis response and suicide prevention line tax imposed by this chapter and the company or seller has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the subscriber or consumer for collection of the tax, in which case a penalty of 10 percent may be added to the amount of the tax for failure of the subscriber or consumer to pay the tax to the company or seller, regardless of when the tax is collected by the department.

**NEW SECTION. Sec. 205. ACCOUNT CREATION.** (1) The statewide 988 behavioral health crisis response and suicide prevention line account is created in the state treasury. All receipts from the statewide 988 behavioral health crisis response and suicide prevention line tax imposed pursuant to this chapter must be deposited into the account. Moneys may only be spent after appropriation.

(2) Expenditures from the account may only be used for (a) ensuring the efficient and effective routing of calls made to the 988 crisis hotline to an appropriate crisis hotline center or crisis call center hub; and (b) personnel and the provision of acute behavioral health, crisis outreach, and crisis stabilization services, as defined in RCW 71.24.025, by directly responding to the 988 crisis hotline.

(3) Moneys in the account may not be used to supplant general fund appropriations for behavioral health services or for medicaid covered services to individuals enrolled in the medicaid program.

**NEW SECTION. Sec. 206. PREEMPTION.** A city or county may not impose a tax, measured on a per line basis, on radio access lines, interconnected voice over internet protocol service lines, or switched access lines, for the purpose of ensuring the efficient and effective routing of calls made to the 988 crisis hotline to an appropriate crisis hotline center or crisis call center hub; or providing personnel or acute behavioral health, crisis outreach, or crisis stabilization services, as defined in RCW 71.24.025, associated with directly responding to the 988 crisis hotline.

**PART III  
DEFINITIONS AND MISCELLANEOUS**

**Sec. 301.** RCW 71.24.025 and 2020 c 256 s 201 are each reenacted and amended to read as follows:

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

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(3) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder

provided by a treatment program licensed or certified by the department as meeting standards adopted under this chapter.

(4) "Authority" means the Washington state health care authority.

(5) "Available resources" means funds appropriated for the purpose of providing community behavioral health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other behavioral health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(6) "Behavioral health administrative services organization" means an entity contracted with the authority to administer behavioral health services and programs under RCW 71.24.381, including crisis services and administration of chapter 71.05 RCW, the involuntary treatment act, for all individuals in a defined regional service area.

(7) "Behavioral health aide" means a counselor, health educator, and advocate who helps address individual and community-based behavioral health needs, including those related to alcohol, drug, and tobacco abuse as well as mental health problems such as grief, depression, suicide, and related issues and is certified by a community health aide program of the Indian health service or one or more tribes or tribal organizations consistent with the provisions of 25 U.S.C. Sec. 1616l and RCW 43.71B.010 (7) and (8).

(8) "Behavioral health provider" means a person licensed under chapter 18.57, 18.57A, 18.71, 18.71A, 18.83, 18.205, 18.225, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(9) "Behavioral health services" means mental health services as described in this chapter and chapter 71.36 RCW and substance use disorder treatment services as described in this chapter that, depending on the type of service, are provided by licensed or certified behavioral health agencies, behavioral health providers, or integrated into other health care providers.

(10) "Child" means a person under the age of eighteen years.

(11) "Chronically mentally ill adult" or "adult who is chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the authority by rule consistent with Public Law 92-603, as amended.

(12) "Clubhouse" means a community-based program that provides rehabilitation services and is licensed or certified by the department.

(13) "Community behavioral health program" means all expenditures, services, activities, or programs, including reasonable administration and overhead, designed and conducted to prevent or treat substance use disorder, mental illness, or both in the community behavioral health system.

(14) "Community behavioral health service delivery system" means public, private, or tribal agencies that provide services specifically to persons with mental disorders, substance use

disorders, or both, as defined under RCW 71.05.020 and receive funding from public sources.

(15) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally or behaviorally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by behavioral health administrative services organizations.

(16) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(17) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a behavioral health administrative services organization, or two or more of the county authorities specified in this subsection which have entered into an agreement to establish a behavioral health administrative services organization.

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

(19) "Designated crisis responder" has the same meaning as in RCW 71.05.020.

(20) "Director" means the director of the authority.

(21) "Drug addiction" means a disease characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(22) "Early adopter" means a regional service area for which all of the county authorities have requested that the authority purchase medical and behavioral health services through a managed care health system as defined under RCW 71.24.380(6).

(23) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in subsection (24) of this section.

(24) "Evidence-based" means a program or practice that has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome. "Evidence-based" also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(25) "Indian health care provider" means a health care program operated by the Indian health service or by a tribe, tribal organization, or urban Indian organization as those terms are

defined in the Indian health care improvement act (25 U.S.C. Sec. 1603).

(26) "Intensive behavioral health treatment facility" means a community-based specialized residential treatment facility for individuals with behavioral health conditions, including individuals discharging from or being diverted from state and local hospitals, whose impairment or behaviors do not meet, or no longer meet, criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based placement settings.

(27) "Licensed or certified behavioral health agency" means:

(a) An entity licensed or certified according to this chapter or chapter 71.05 RCW;

(b) An entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department; or

(c) An entity with a tribal attestation that it meets state minimum standards for a licensed or certified behavioral health agency.

(28) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(29) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

(30) "Managed care organization" means an organization, having a certificate of authority or certificate of registration from the office of the insurance commissioner, that contracts with the authority under a comprehensive risk contract to provide prepaid health care services to enrollees under the authority's managed care programs under chapter 74.09 RCW.

(31) "Mental health peer-run respite center" means a peer-run program to serve individuals in need of voluntary, short-term, noncrisis services that focus on recovery and wellness.

(32) Mental health "treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department of social and health services or the authority, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, or by treatment facilities. "Treatment records" do not include notes or records maintained for personal use by a person providing treatment services for the entities listed in this subsection, or a treatment facility if the notes or records are not available to others.

(33) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (11), (40), and (41) of this section.

(34) "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(35) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review

supports sustained outcomes as described in subsection (24) of this section but does not meet the full criteria for evidence-based.

(36) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, residential treatment facilities, assisted living facilities, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(37) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(38) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined by a behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated crisis responders, evaluation and treatment facilities, and others as determined by the behavioral health administrative services organization or managed care organization, as applicable.

(39) "Secretary" means the secretary of the department of health.

(40) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(41) "Severely emotionally disturbed child" or "child who is severely emotionally disturbed" means a child who has been determined by the behavioral health administrative services organization or managed care organization, if applicable, to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a caretaker who is mentally ill or inadequate;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(42) "State minimum standards" means minimum requirements established by rules adopted and necessary to implement this chapter by:

(a) The authority for:

(i) Delivery of mental health and substance use disorder services; and

(ii) Community support services and resource management services;

(b) The department of health for:

(i) Licensed or certified behavioral health agencies for the purpose of providing mental health or substance use disorder programs and services, or both;

(ii) Licensed behavioral health providers for the provision of mental health or substance use disorder services, or both; and

(iii) Residential services.

(43) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

(44) "Tribe," for the purposes of this section, means a federally recognized Indian tribe.

(45) "Crisis call center hub" means a state-designated center participating in the national suicide prevention lifeline network to respond to statewide or regional 988 calls that meets the requirements of section 102 of this act.

(46) "Crisis stabilization services" means services such as 23-hour crisis stabilization units based on the living room model, crisis stabilization units as provided in RCW 71.05.020, triage facilities as provided in RCW 71.05.020, short-term respite facilities, peer-run respite services, and same-day walk-in behavioral health services, including within the overall crisis system components that operate like hospital emergency departments that accept all walk-ins, and ambulance, fire, and police drop-offs.

(47) "Mobile rapid response crisis team" means a team that provides professional on-site community-based intervention such

as outreach, de-escalation, stabilization, resource connection, and follow-up support for individuals who are experiencing a behavioral health crisis, that shall include certified peer counselors as a best practice to the extent practicable based on workforce availability, and that meets standards for response times established by the authority.

(48) "988 crisis hotline" means the universal telephone number within the United States designated for the purpose of the national suicide prevention and mental health crisis hotline system operating through the national suicide prevention lifeline.

**Sec. 302.** RCW 71.24.025 and 2020 c 256 s 201 and 2020 c 80 s 52 are each reenacted and amended to read as follows:

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

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(3) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program licensed or certified by the department as meeting standards adopted under this chapter.

(4) "Authority" means the Washington state health care authority.

(5) "Available resources" means funds appropriated for the purpose of providing community behavioral health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other behavioral health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(6) "Behavioral health administrative services organization" means an entity contracted with the authority to administer behavioral health services and programs under RCW 71.24.381, including crisis services and administration of chapter 71.05 RCW, the involuntary treatment act, for all individuals in a defined regional service area.

(7) "Behavioral health aide" means a counselor, health educator, and advocate who helps address individual and community-based behavioral health needs, including those related to alcohol, drug, and tobacco abuse as well as mental health problems such as grief, depression, suicide, and related issues and is certified by a community health aide program of the Indian health service or one or more tribes or tribal organizations consistent with the provisions of 25 U.S.C. Sec. 1616l and RCW 43.71B.010 (7) and (8).

(8) "Behavioral health provider" means a person licensed under chapter 18.57, 18.71, 18.71A, 18.83, 18.205, 18.225, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(9) "Behavioral health services" means mental health services as described in this chapter and chapter 71.36 RCW and substance use disorder treatment services as described in this chapter that, depending on the type of service, are provided by licensed or certified behavioral health agencies, behavioral health providers, or integrated into other health care providers.

(10) "Child" means a person under the age of eighteen years.

(11) "Chronically mentally ill adult" or "adult who is chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the authority by rule consistent with Public Law 92-603, as amended.

(12) "Clubhouse" means a community-based program that provides rehabilitation services and is licensed or certified by the department.

(13) "Community behavioral health program" means all expenditures, services, activities, or programs, including reasonable administration and overhead, designed and conducted to prevent or treat substance use disorder, mental illness, or both in the community behavioral health system.

(14) "Community behavioral health service delivery system" means public, private, or tribal agencies that provide services specifically to persons with mental disorders, substance use disorders, or both, as defined under RCW 71.05.020 and receive funding from public sources.

(15) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally or behaviorally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by behavioral health administrative services organizations.

(16) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(17) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a behavioral health administrative services organization, or two or more of the county authorities specified in this subsection which have entered into an agreement to establish a behavioral health administrative services organization.

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

(19) "Designated crisis responder" has the same meaning as in RCW 71.05.020.

(20) "Director" means the director of the authority.

(21) "Drug addiction" means a disease characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(22) "Early adopter" means a regional service area for which all of the county authorities have requested that the authority purchase medical and behavioral health services through a managed care health system as defined under RCW 71.24.380(6).

(23) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in subsection (24) of this section.

(24) "Evidence-based" means a program or practice that has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome. "Evidence-based" also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(25) "Indian health care provider" means a health care program operated by the Indian health service or by a tribe, tribal organization, or urban Indian organization as those terms are defined in the Indian health care improvement act (25 U.S.C. Sec. 1603).

(26) "Intensive behavioral health treatment facility" means a community-based specialized residential treatment facility for individuals with behavioral health conditions, including individuals discharging from or being diverted from state and local hospitals, whose impairment or behaviors do not meet, or no longer meet, criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based placement settings.

(27) "Licensed or certified behavioral health agency" means:

(a) An entity licensed or certified according to this chapter or chapter 71.05 RCW;

(b) An entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department; or

(c) An entity with a tribal attestation that it meets state minimum standards for a licensed or certified behavioral health agency.

(28) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(29) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving

less restrictive alternative treatment on the grounds of the state hospital.

(30) "Managed care organization" means an organization, having a certificate of authority or certificate of registration from the office of the insurance commissioner, that contracts with the authority under a comprehensive risk contract to provide prepaid health care services to enrollees under the authority's managed care programs under chapter 74.09 RCW.

(31) "Mental health peer-run respite center" means a peer-run program to serve individuals in need of voluntary, short-term, noncrisis services that focus on recovery and wellness.

(32) Mental health "treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department of social and health services or the authority, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, or by treatment facilities. "Treatment records" do not include notes or records maintained for personal use by a person providing treatment services for the entities listed in this subsection, or a treatment facility if the notes or records are not available to others.

(33) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (11), (40), and (41) of this section.

(34) "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(35) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review supports sustained outcomes as described in subsection (24) of this section but does not meet the full criteria for evidence-based.

(36) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, residential treatment facilities, assisted living facilities, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(37) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(38) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults

who are seriously disturbed and determined by a behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven days a week, twenty-four hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated crisis responders, evaluation and treatment facilities, and others as determined by the behavioral health administrative services organization or managed care organization, as applicable.

(39) "Secretary" means the secretary of the department of health.

(40) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(41) "Severely emotionally disturbed child" or "child who is severely emotionally disturbed" means a child who has been determined by the behavioral health administrative services organization or managed care organization, if applicable, to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a caretaker who is mentally ill or inadequate;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(42) "State minimum standards" means minimum requirements established by rules adopted and necessary to implement this chapter by:

(a) The authority for:

(i) Delivery of mental health and substance use disorder services; and



(ii) Community support services and resource management services;

(b) The department of health for:

(i) Licensed or certified behavioral health agencies for the purpose of providing mental health or substance use disorder programs and services, or both;

(ii) Licensed behavioral health providers for the provision of mental health or substance use disorder services, or both; and

(iii) Residential services.

(43) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

(44) "Tribe," for the purposes of this section, means a federally recognized Indian tribe.

(45) "Crisis call center hub" means a state-designated center participating in the national suicide prevention lifeline network to respond to statewide or regional 988 calls that meets the requirements of section 102 of this act.

(46) "Crisis stabilization services" means services such as 23-hour crisis stabilization units based on the living room model, crisis stabilization units as provided in RCW 71.05.020, triage facilities as provided in RCW 71.05.020, short-term respite facilities, peer-run respite services, and same-day walk-in behavioral health services, including within the overall crisis system components that operate like hospital emergency departments that accept all walk-ins, and ambulance, fire, and police drop-offs.

(47) "Mobile rapid response crisis team" means a team that provides professional on-site community-based intervention such as outreach, de-escalation, stabilization, resource connection, and follow-up support for individuals who are experiencing a behavioral health crisis, that shall include certified peer counselors as a best practice to the extent practicable based on workforce availability, and that meets standards for response times established by the authority.

(48) "988 crisis hotline" means the universal telephone number within the United States designated for the purpose of the national suicide prevention and mental health crisis hotline system operating through the national suicide prevention lifeline.

**Sec. 303.** RCW 71.24.649 and 2019 c 324 s 5 are each amended to read as follows:

The secretary shall license or certify mental health peer-run respite centers that meet state minimum standards. In consultation with the authority and the department of social and health services, the secretary must:

(1) Establish requirements for licensed and certified community behavioral health agencies to provide mental health peer-run respite center services and establish physical plant and service requirements to provide voluntary, short-term, noncrisis services that focus on recovery and wellness;

(2) Require licensed and certified agencies to partner with the local crisis system including, but not limited to, evaluation and treatment facilities and designated crisis responders;

(3) Establish staffing requirements, including rules to ensure that facilities are peer-run;

(4) Limit services to a maximum of seven days in a month;

(5) Limit services to individuals who are experiencing psychiatric distress, but do not meet legal criteria for involuntary hospitalization under chapter 71.05 RCW; and

(6) Limit services to persons at least eighteen years of age.

NEW SECTION. Sec. 304. Sections 201 through 206 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. Sec. 305. Sections 201 through 205 of this act take effect October 1, 2021.

NEW SECTION. Sec. 306. Section 301 of this act expires July 1, 2022.

NEW SECTION. Sec. 307. Section 302 of this act takes effect July 1, 2022.

NEW SECTION. Sec. 308. Section 103 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 309. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void."

On page 1, line 4 of the title, after "services;" strike the remainder of the title and insert "amending RCW 71.24.649; reenacting and amending RCW 71.24.025 and 71.24.025; adding new sections to chapter 71.24 RCW; adding a new section to chapter 48.43 RCW; adding a new section to chapter 43.06 RCW; adding a new chapter to Title 82 RCW; creating new sections; prescribing penalties; providing effective dates; providing expiration dates; and declaring an emergency."

Senator Dhingra spoke in favor of not adopting the committee striking amendment.

The President declared the question before the Senate to be not adopt of the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 1477.

The motion by Senator Dhingra carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Dhingra moved that the following committee striking amendment by the Committee on Behavioral Health Subcommittee to Health & Long Term Care be not adopted:

Strike everything after the enacting clause and insert the following:

"PART I

**CRISIS CALL CENTER HUBS AND CRISIS SERVICES**

NEW SECTION. Sec. 101. (1) The legislature finds that:

(a) Nearly 6,000 Washington adults and children died by suicide in the last five years, according to the federal centers for disease control and prevention, tragically reflecting a state increase of 36 percent in the last 10 years.

(b) Suicide is now the single leading cause of death for Washington young people ages 10 through 24, with total deaths 22 percent higher than for vehicle crashes.

(c) Groups with suicide rates higher than the general population include veterans, American Indians/Alaska Natives, LGBTQ youth, and people living in rural counties across the state.

(d) More than one in five Washington residents are currently living with a behavioral health disorder.

(e) The COVID-19 pandemic has increased stressors and substance use among Washington residents.

(f) An improved crisis response system will reduce reliance on emergency room services and the use of law enforcement response to behavioral health crises and will stabilize individuals in the community whenever possible.

(2) The legislature intends to:

(a) Establish crisis call center hubs and expand the crisis response system in a deliberate, phased approach that includes the involvement of partners from a range of perspectives to:

(i) Save lives by improving the quality of and access to behavioral health crisis services;

(ii) Further equity in addressing mental health and substance use treatment and assure a culturally and linguistically competent response to behavioral health crises;

(iii) Recognize that, historically, crisis response placed marginalized communities, including those experiencing behavioral health crises, at disproportionate risk of poor outcomes and criminal justice involvement;

(iv) Comply with the national suicide hotline designation act of 2020 and the federal communications commission's rules adopted July 16, 2020, to assure that all Washington residents receive a consistent and effective level of 988 suicide prevention and other behavioral health crisis response services no matter where they live, work, or travel in the state; and

(v) Provide higher quality support for people experiencing behavioral health crises through investment in new technology to create a crisis call center hub system to triage calls and link individuals to follow-up care.

(b) Make additional investments to enhance the crisis response system, including the expansion of crisis teams, to be known as mobile rapid response crisis teams, and deployment of a wide array of crisis stabilization services, such as 23-hour crisis stabilization units based on the living room model, crisis stabilization centers, short-term respite facilities, peer-operated respite services, and same-day walk-in behavioral health services. The overall crisis system shall contain components that operate like hospital emergency departments that accept all walk-ins and ambulance, fire, and police drop-offs. The use of peers must be incorporated as often as possible within the continuum of crisis care.

**NEW SECTION. Sec. 102.** A new section is added to chapter 71.24 RCW to read as follows:

(1) Establishing the state crisis call center hubs and enhancing the crisis response system will require collaborative work between the department and the authority within their respective roles. The department shall have primary responsibility for establishing and designating the crisis call center hubs. The authority shall have primary responsibility for developing and implementing the crisis response system and services to support the work of the crisis call center hubs. In any instance in which one agency is identified as the lead, the expectation is that agency will be communicating and collaborating with the other to ensure seamless, continuous, and effective service delivery within the statewide crisis response system.

(2) The department shall provide adequate funding for the state's crisis call centers to meet an expected increase in the use of the call centers based on the implementation of the 988 crisis hotline. The funding level shall be established at a level anticipated to achieve an in-state call response rate of at least 90 percent by July 22, 2022, and an in-state call response rate of at least 95 percent by July 1, 2023. The funding level shall be determined by considering standards and cost per call predictions provided by the administrator of the national suicide prevention lifeline, call volume predictions, guidance on crisis call center performance metrics, and necessary technology upgrades.

(3) The department shall adopt rules by July 1, 2023, to establish standards for designation of crisis call centers as crisis call center hubs. The department shall collaborate with the authority and other agencies to assure coordination and availability of services, and shall consider national guidelines for

behavioral health crisis care as determined by the federal substance abuse and mental health services administration, national behavioral health accrediting bodies, and national behavioral health provider associations to the extent they are appropriate, and recommendations from the crisis response improvement strategy committee created in section 103 of this act.

(4) The department shall designate crisis call center hubs by July 1, 2024. The crisis call center hubs shall provide crisis intervention services, triage, care coordination, referrals, and connections to individuals contacting the 988 crisis hotline from any jurisdiction within Washington 24 hours a day, seven days a week, using the system platform developed under subsection (5) of this section.

(a) To be designated as a crisis call center hub, the applicant must demonstrate to the department the ability to comply with the requirements of this section and to contract with the department to provide crisis call center hub services. The department may revoke the designation of any crisis call center hub that fails to substantially comply with the contract.

(b) The contracts entered by the department shall require designated crisis call center hubs to:

(i) Have an active agreement with the administrator of the national suicide prevention lifeline for participation within its network;

(ii) Meet the requirements for operational and clinical standards established by the department and based upon the national suicide prevention lifeline best practices guidelines and other recognized best practices;

(iii) Employ highly skilled and trained clinical staff with at least a bachelors or masters level of education, as appropriate, who have sufficient training and resources to provide empathy to callers in acute distress, de-escalate crises, assess behavioral health disorders and suicide risk, triage to system partners, and provide case management and documentation. Call center staff shall be trained to make every effort to resolve cases in the least restrictive environment and without law enforcement involvement whenever possible. Call center staff shall coordinate with certified peers to provide follow-up and outreach to callers in distress as available and appropriate. It is intended for transition planning to include a pathway for continued employment and skill advancement as needed for experienced crisis call center employees;

(iv) Collaborate with the authority, the national suicide prevention lifeline, and veterans crisis line networks to assure consistency of public messaging about the 988 crisis hotline; and

(v) Provide data and reports and participate in evaluations and related quality improvement activities, according to standards established by the department in collaboration with the authority.

(c) The department may incorporate recommendations from the crisis response improvement strategy committee created in section 103 of this act in its agreements with crisis call center hubs, as appropriate.

(5) The department shall, in collaboration with the authority, develop a new technologically advanced behavioral health crisis call center system platform for use in crisis call center hubs designated by the department under subsection (4) of this section, which shall be fully funded by July 1, 2023. The platform must include the capacity to:

(a) Receive crisis assistance requests through phone calls, texts, chats, and other similar methods of communication that may be developed in the future and promote access to the behavioral health crisis system;

(b) Access real-time information relevant to the coordination of behavioral health crisis response services from managed care

organizations, behavioral health administrative services organizations, and other health care payers, including both primary care providers and behavioral health providers within managed care organization networks, to enable the crisis call center hubs to actively collaborate with these entities to provide for the care needs of the person contacting the 988 crisis hotline, according to formal agreements established by the authority. The information accessible to the platform must include comprehensive and up-to-date information about less restrictive alternative treatment orders and mental health advance directives;

(c) Deploy crisis response services, which may include mobile rapid response crisis teams, coresponder teams, mobile integrated health teams, or community assistance referral and educational services programs under RCW 35.21.930, according to best practice guidelines established by the authority, and track local response through global positioning technology;

(d) Use technology demonstrated to be interoperable across crisis and emergency response systems used throughout the state, such as 911 systems, emergency medical services systems, and other nonbehavioral health crisis services;

(e) Arrange next-day appointments for persons experiencing urgent, symptomatic behavioral health care needs and follow-up services for other persons contacting the 988 crisis hotline with geographically, culturally, and linguistically appropriate primary care or behavioral health providers within the person's provider network, or, if uninsured, through the person's behavioral health administrative services organization;

(f) Track and provide real-time bed availability to crisis response workers and individuals in crisis for all behavioral health bed types, including crisis stabilization services, psychiatric inpatient, substance use disorder inpatient, withdrawal management, and peer crisis respite, including voluntary and involuntary beds; and

(g) Appropriately serve high-risk populations according to guidelines established by the authority. The authority shall design these guidelines to promote behavioral health equity for all populations with regard to circumstances of race, ethnicity, gender, socioeconomic status, sexual orientation, and geographic location, and include components such as training requirements, policies for transferring such callers to an appropriate specialized center or subnetwork within or external to the national suicide prevention lifeline network, and procedures for referring persons accessing the 988 crisis hotline to linguistically and culturally competent care.

(6) The authority, in consultation with the department, shall adopt rules necessary to implement this section. The rules must allow appropriate information sharing and communication between and across crisis and emergency response systems for the purpose of real-time crisis care coordination including, but not limited to, deployment of crisis and outgoing services, follow-up care, and linked, flexible services specific to crisis response.

(7) The department shall collaborate with the state enhanced 911 coordination office, emergency management division, and military department to develop technology that is demonstrated to be interoperable between the 988 crisis hotline system and crisis and emergency response systems used throughout the state, such as 911 systems, emergency medical services systems, and other nonbehavioral health crisis services, as well as the national suicide prevention lifeline, to assure cohesive interoperability, develop training programs and operations for both 911 public safety telecommunicators and crisis line workers, develop suicide and other behavioral health crisis assessments and intervention strategies, and establish efficient and equitable access to resources via crisis hotlines.

**NEW SECTION. Sec. 103.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The crisis response improvement strategy committee is established for the purpose of developing an integrated behavioral health crisis response system containing the elements described in this section.

(2) The office of financial management shall contract with the behavioral health institute at Harborview medical center to facilitate and provide staff support to the crisis response improvement strategy committee.

(3) The crisis response improvement strategy committee shall have three cochairs selected from among the members of the steering committee. The crisis response improvement strategy committee shall consist of the following members, who shall be appointed or requested by the authority, unless otherwise noted:

(a) The director of the authority, or his or her designee, who shall also serve on the steering committee;

(b) The secretary of the department, or his or her designee, who shall also serve on the steering committee;

(c) A member representing the office of the governor, who shall also serve on the steering committee;

(d) The Washington state insurance commissioner, or his or her designee;

(e) Up to two members representing tribal interests, one from eastern Washington and one from western Washington, who have expertise in behavioral health needs of tribal communities;

(f) One member from each of the two largest caucuses of the senate, one of whom shall also be designated to participate on the steering committee, to be appointed by the president of the senate;

(g) One member from each of the two largest caucuses of the house of representatives, one of whom shall also be designated to participate on the steering committee, to be appointed by the speaker of the house of representatives;

(h) The director of the Washington state department of veterans affairs, or his or her designee;

(i) The state enhanced 911 coordinator, or his or her designee;

(j) A member with lived experience of a suicide attempt;

(k) A member with lived experience of a suicide loss;

(l) A member with experience of participation in the crisis system related to lived experience of a mental health disorder;

(m) A member with experience of participation in the crisis system related to lived experience with a substance use disorder;

(n) A member representing each crisis call center in Washington that is contracted with the national suicide prevention lifeline;

(o) Up to two members representing behavioral health administrative services organizations, one from an urban region and one from a rural region;

(p) A member representing the Washington council for behavioral health;

(q) A member representing the association of alcoholism and addiction programs of Washington state;

(r) A member representing the Washington state hospital association;

(s) A member representing the national alliance on mental illness Washington;

(t) A member representing the behavioral health interests of persons of color recommended by Sea Mar community health centers;

(u) A member representing the behavioral health interests of persons of color recommended by Asian counseling and referral service;

(v) A member representing law enforcement;

(w) A member representing a university-based suicide prevention center of excellence;

(x) A member representing an emergency medical services department with a CARES program;

(y) A member representing medicaid managed care organizations, as recommended by the association of Washington healthcare plans;

(z) A member representing commercial health insurance, as recommended by the association of Washington healthcare plans;

(aa) A member representing the Washington association of designated crisis responders;

(bb) A member representing the children and youth behavioral health work group;

(cc) A member representing a social justice organization addressing police accountability and the use of deadly force; and

(dd) A member representing an organization specializing in facilitating behavioral health services for LGBTQ populations.

(4) The crisis response improvement strategy committee shall identify barriers and make recommendations to implement and monitor the progress of the 988 crisis hotline in Washington and make recommendations on statewide improvement of behavioral health crisis response services.

(5) The committee must develop a comprehensive assessment of the behavioral health crisis response services system, including an inventory of existing statewide and regional behavioral health crisis response and crisis stabilization services and resources, including capital projects which are planned and funded. The assessment must identify:

(a) Statewide and regional insufficiencies and gaps in necessary behavioral health crisis response services and resources to meet population needs;

(b) Goals for the provision of statewide and regional behavioral health crisis services and resources including, but not limited to, reductions in involuntary commitment detentions, single-bed certifications, reported suicide attempts and deaths, reported substance use disorder related overdoses and overdose or withdrawal related deaths, and incarcerations due to a behavioral health incident;

(c) A process for establishing benchmarks, improvement targets, and outcome measures for the crisis response system; and

(d) Potential funding sources for each element of the statewide and regional behavioral health crisis services and resources.

(6) The committee, with reference to the comprehensive assessment work under subsection (5) of this section, shall discuss and report on the following:

(a) A recommended vision for an integrated crisis network in Washington that includes, but is not limited to: An integrated 988 crisis hotline and crisis call center hubs; mobile rapid response crisis teams; mobile crisis response units for youth, adult, and geriatric population; an array of crisis stabilization services; an integrated involuntary treatment system; peer and respite services; and data resources;

(b) Recommendations for ensuring equity in services for individuals of diverse circumstances of culture, race, ethnicity, gender, socioeconomic status, sexual orientation, and for individuals in tribal, urban, and rural communities;

(c) Recommendations for a work plan with timelines to implement local responses to calls to the 988 crisis hotline within Washington in accordance with the time frames required by the national suicide hotline designation act of 2020;

(d) The necessary components of a new statewide, technologically advanced behavioral health crisis call center system with a platform, as described in section 102 of this act, for assigning and tracking response to behavioral health crisis calls and providing real-time bed and outpatient appointment

availability to 988 operators, designated crisis responders, and other behavioral health crisis responders, which may include but shall not be limited to:

(i) Identification of the components crisis call center hub staff need to effectively coordinate crisis response services and access the platform to find available beds and available primary care and behavioral health outpatient appointments;

(ii) Evaluation of existing bed tracking models currently utilized by other states and identifying the model most suitable to Washington's crisis behavioral health system;

(iii) Evaluation of whether bed tracking will improve access to all behavioral health bed types and other impacts and benefits;

(iv) Exploration of how the bed tracking and outpatient appointment availability platform can facilitate more timely access to care and other impacts and benefits;

(v) Recommendations related to how behavioral health providers can maintain and update real-time information regarding the availability of behavioral health inpatient and residential bed availability to the crisis call center system platform, and the feasibility, impact, and benefits of this requirement; and

(vi) Recommendations related to primary care providers and behavioral health providers maintaining and updating real-time information regarding the outpatient appointment availability to the crisis call center system platform;

(e) A work plan to establish the capacity for the crisis call center hubs to integrate Spanish language interpreters and Spanish-speaking call center staff into their operations, and to ensure the availability of resources to meet the unique needs of persons in the agricultural community who are experiencing mental health stresses, which explicitly addresses concerns regarding confidentiality;

(f) A work plan with timelines to enhance and expand the availability of community-based mobile rapid response crisis teams based in each region, including specialized teams as appropriate to respond to the unique needs of youth, including American Indian and Alaska Native youth and LGBTQ youth, and geriatric populations, including older adults of color and older adults with comorbid dementia;

(g) The identification of other personal and systemic behavioral health challenges which implementation of the 988 crisis hotline has the potential to address in addition to suicide response and mental health and substance use crises;

(h) The development of a plan for the statewide equitable distribution of crisis stabilization services, behavioral health beds, and peer respite services;

(i) Recommendations concerning how health plans, managed care organizations, and behavioral health administrative services organizations shall fulfill requirements to provide assignment of a care coordinator and to provide next-day appointments for enrollees who contact the behavioral health crisis system;

(j) Appropriate allocation of crisis system funding responsibilities among medicaid managed care organizations, commercial insurers, and behavioral health administrative services organizations;

(k) Recommendations for constituting a statewide behavioral health crisis response oversight board or similar structure for ongoing monitoring of the behavioral health crisis system and where this should be established; and

(l) Cost estimates for each of the components recommended by the crisis response improvement strategy committee.

(7) The crisis response improvement strategy committee shall form subcommittees to focus on discrete topics. The subcommittees may include participants who are not members of the committee, as needed to provide professional expertise and

community perspectives. The committee shall form the following subcommittees:

(a) A steering committee which shall convene the committee, select cochairs for the committee, form and assign tasks to subcommittees, and establish a schedule of meetings and their agendas, consisting only of members appointed to the steering committee under this section and the director of the behavioral health institute at Harboview medical center or his or her designee;

(b) A credentialing and training subcommittee, to determine workforce needs and requirements necessary to implement this act;

(c) A technology subcommittee, to examine issues and requirements related to the technology needed to implement this act;

(d) A cross-system crisis response collaboration subcommittee, to examine and define the complementary roles and interactions between mobile rapid response crisis teams, designated crisis responders, law enforcement, emergency medical services teams, 911 and 988 operators, public and private health plans, behavioral health crisis response agencies, nonbehavioral health crisis response agencies, and others needed to implement this act;

(e) A confidential information compliance and coordination subcommittee, to examine issues relating to sharing and protection of health information needed to implement this act; and

(f) Any other subcommittee needed to facilitate the work of the committee, at the discretion of the steering committee.

(8) The proceedings of the crisis response improvement strategy committee must be open to the public and invite testimony from a broad range of perspectives. The crisis response improvement strategy committee shall seek input from tribes, veterans, the LGBTQ community, and communities of color to determine how well the crisis response system is currently working and ways to improve the crisis response system.

(9) Legislative members of the implementation coalition shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(10) The crisis response improvement strategy committee shall report its progress, findings, and preliminary or final recommendations to the governor and the appropriate policy and fiscal committees of the legislature by January 1, 2022, and January 1, 2023.

(11) This section expires June 30, 2023.

**NEW SECTION. Sec. 104.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The department and authority shall provide an annual report regarding the usage of the 988 crisis hotline, call outcomes, and the provision of crisis services inclusive of mobile rapid response crisis teams and crisis stabilization services. The report shall be submitted to the governor and the appropriate committees of the legislature each November beginning in 2023. The report shall include information on the fund deposits and expenditures of the account created in section 205 of this act.

(2) The department and authority shall coordinate with the department of revenue, and any other agency that is appropriated funding under the account created in section 205 of this act, to develop and submit information to the federal communications commission required for the completion of fee accountability reports pursuant to the national suicide hotline designation act of 2020.

**NEW SECTION. Sec. 105.** A new section is added to chapter 48.43 RCW to read as follows:

Health plans issued or renewed on or after January 1, 2023, must make next-day appointments for covered behavioral health services available to enrollees experiencing urgent, symptomatic behavioral health conditions. Need for urgent symptomatic care is associated with the presentation of behavioral health signs or symptoms that require immediate attention, but are not emergent.

**PART II**

**TAX**

**NEW SECTION. Sec. 201. DEFINITIONS.** (1) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(a) "988 crisis hotline" has the same meaning as in RCW 71.24.025.

(b) "Crisis call center hub" has the same meaning as in RCW 71.24.025.

(2) The definitions in RCW 82.14B.020 apply to this chapter.

**NEW SECTION. Sec. 202. TAX IMPOSED.** (1)(a) A statewide 988 behavioral health crisis response line tax is imposed on the use of all radio access lines:

(i) By subscribers whose place of primary use is located within the state in the amount set forth in (a)(ii) of this subsection (1) per month for each radio access line. The tax must be uniform for each radio access line under this subsection (1); and

(ii) By consumers whose retail transaction occurs within the state in the amount set forth in this subsection (1)(a)(ii) per retail transaction. The amount of tax must be uniform for each retail transaction under this subsection (1) and is as follows:

(A) Beginning October 1, 2021, through December 31, 2022, the tax rate is 30 cents for each radio access line; and

(B) Beginning January 1, 2023, the tax rate is 50 cents for each radio access line.

(b) The tax imposed under this subsection (1) must be remitted to the department by radio communications service companies, including those companies that resell radio access lines, and sellers of prepaid wireless telecommunications service, on a tax return provided by the department. Tax proceeds must be deposited by the treasurer into the statewide 988 behavioral health crisis response line account created in section 205 of this act.

(c) For the purposes of this subsection (1), the retail transaction is deemed to occur at the location where the transaction is sourced under RCW 82.32.520(3)(c).

(2) A statewide 988 behavioral health crisis response line tax is imposed on all interconnected voice over internet protocol service lines in the state. The amount of tax must be uniform for each line and must be levied on no more than the number of voice over internet protocol service lines on an account that is capable of simultaneous unrestricted outward calling to the public switched telephone network. The tax imposed under this subsection (2) must be remitted to the department by interconnected voice over internet protocol service companies on a tax return provided by the department. The amount of tax for each interconnected voice over internet protocol service line whose place of primary use is located in the state is as follows:

(a) Beginning October 1, 2021, through December 31, 2022, the tax rate is 30 cents for an interconnected voice over internet protocol service line; and

(b) Beginning January 1, 2023, the tax rate is 50 cents for an interconnected voice over internet protocol service line.

(3) A statewide 988 behavioral health crisis response line tax is imposed on all switched access lines in the state. The amount of tax must be uniform for each line and must be levied on no more than the number of switched access lines on an account that is

capable of simultaneous unrestricted outward calling to the public switched telephone network. The tax imposed under this subsection (3) must be remitted to the department by local exchange companies on a tax return provided by the department. The amount of tax for each switched access line whose place of primary use is located in the state is as follows:

(a) Beginning October 1, 2021, through December 31, 2022, the tax rate is 30 cents for each switched access line; and

(b) Beginning January 1, 2023, the tax rate is 50 cents for each switched access line.

(4) Tax proceeds collected pursuant to this section must be deposited by the treasurer into the statewide 988 behavioral health crisis response line account created in section 205 of this act.

**NEW SECTION. Sec. 203. COLLECTION OF TAX.** (1) Except as provided otherwise in subsection (2) of this section:

(a) The statewide 988 behavioral health crisis response line tax on radio access lines must be collected from the subscriber by the radio communications service company, including those companies that resell radio access lines, providing the radio access line to the subscriber, and the seller of prepaid wireless telecommunications services.

(b) The statewide 988 behavioral health crisis response line tax on interconnected voice over internet protocol service lines must be collected from the subscriber by the interconnected voice over internet protocol service company providing the interconnected voice over internet protocol service line to the subscriber.

(c) The statewide 988 behavioral health crisis response line tax on switched access lines must be collected from the subscriber by the local exchange company.

(d) The amount of the tax must be stated separately on the billing statement which is sent to the subscriber.

(2)(a) The statewide 988 behavioral health crisis response line tax imposed by this chapter must be collected from the consumer by the seller of a prepaid wireless telecommunications service for each retail transaction occurring in this state.

(b) The department must transfer all tax proceeds remitted by a seller under this subsection (2) to the statewide 988 behavioral health crisis response line account created in section 205 of this act.

(c) The taxes required by this subsection to be collected by the seller must be separately stated in any sales invoice or instrument of sale provided to the consumer.

**NEW SECTION. Sec. 204. PAYMENT AND COLLECTION.** (1)(a) The statewide 988 behavioral health crisis response line tax imposed by this chapter must be paid by the subscriber to the radio communications service company providing the radio access line, the local exchange company, or the interconnected voice over internet protocol service company providing the interconnected voice over internet protocol service line.

(b) Each radio communications service company, each local exchange company, and each interconnected voice over internet protocol service company, must collect from the subscriber the full amount of the taxes payable. The statewide 988 behavioral health crisis response line tax required by this chapter to be collected by a company or seller, are deemed to be held in trust by the company or seller until paid to the department. Any radio communications service company, local exchange company, or interconnected voice over internet protocol service company that appropriates or converts the tax collected to its own use or to any use other than the payment of the tax to the extent that the money collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(2) If any radio communications service company, local exchange company, or interconnected voice over internet

protocol service company fails to collect the statewide 988 behavioral health crisis response line tax or, after collecting the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of its own act or the result of acts or conditions beyond its control, the company or seller is personally liable to the state for the amount of the tax, unless the company or seller has taken from the buyer in good faith documentation, in a form and manner prescribed by the department, stating that the buyer is not a subscriber or consumer or is otherwise not liable for the statewide 988 behavioral health crisis response line tax.

(3) The amount of tax, until paid by the subscriber to the radio communications service company, local exchange company, the interconnected voice over internet protocol service company, or to the department, constitutes a debt from the subscriber to the company, or from the consumer to the seller. Any company or seller that fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any subscriber or consumer who refuses to pay any tax due under this chapter is guilty of a misdemeanor. The statewide 988 behavioral health crisis response line tax required by this chapter to be collected by the radio communications service company, local exchange company, or interconnected voice over internet protocol service company must be stated separately on the billing statement that is sent to the subscriber.

(4) If a subscriber has failed to pay to the radio communications service company, local exchange company, or interconnected voice over internet protocol service company, the statewide 988 behavioral health crisis response line tax imposed by this chapter and the company or seller has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the subscriber or consumer for collection of the tax, in which case a penalty of 10 percent may be added to the amount of the tax for failure of the subscriber or consumer to pay the tax to the company or seller, regardless of when the tax is collected by the department.

**NEW SECTION. Sec. 205. ACCOUNT CREATION.** (1) The statewide 988 behavioral health crisis response line account is created in the state treasury. All receipts from the statewide 988 behavioral health crisis response line tax imposed pursuant to this chapter must be deposited into the account. Moneys may only be spent after appropriation.

(2) Expenditures from the account may only be used for (a) ensuring the efficient and effective routing of calls made to the 988 crisis hotline to an appropriate crisis hotline center or crisis call center hub; and (b) personnel and the provision of acute behavioral health, crisis outreach, crisis stabilization services as defined in RCW 71.24.025, and follow-up case management by directly responding to the 988 crisis hotline.

(3) Moneys in the account may not be used to supplant general fund appropriations for behavioral health services or for medicaid covered services to individuals enrolled in the medicaid program.

### PART III

#### DEFINITIONS AND MISCELLANEOUS

**Sec. 301.** RCW 71.24.025 and 2020 c 256 s 201 are each reenacted and amended to read as follows:

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

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(3) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program licensed or certified by the department as meeting standards adopted under this chapter.

(4) "Authority" means the Washington state health care authority.

(5) "Available resources" means funds appropriated for the purpose of providing community behavioral health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other behavioral health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(6) "Behavioral health administrative services organization" means an entity contracted with the authority to administer behavioral health services and programs under RCW 71.24.381, including crisis services and administration of chapter 71.05 RCW, the involuntary treatment act, for all individuals in a defined regional service area.

(7) "Behavioral health aide" means a counselor, health educator, and advocate who helps address individual and community-based behavioral health needs, including those related to alcohol, drug, and tobacco abuse as well as mental health problems such as grief, depression, suicide, and related issues and is certified by a community health aide program of the Indian health service or one or more tribes or tribal organizations consistent with the provisions of 25 U.S.C. Sec. 1616l and RCW 43.71B.010 (7) and (8).

(8) "Behavioral health provider" means a person licensed under chapter 18.57, 18.57A, 18.71, 18.71A, 18.83, 18.205, 18.225, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(9) "Behavioral health services" means mental health services as described in this chapter and chapter 71.36 RCW and substance use disorder treatment services as described in this chapter that, depending on the type of service, are provided by licensed or certified behavioral health agencies, behavioral health providers, or integrated into other health care providers.

(10) "Child" means a person under the age of eighteen years.

(11) "Chronically mentally ill adult" or "adult who is chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial

gainful activity" shall be defined by the authority by rule consistent with Public Law 92-603, as amended.

(12) "Clubhouse" means a community-based program that provides rehabilitation services and is licensed or certified by the department.

(13) "Community behavioral health program" means all expenditures, services, activities, or programs, including reasonable administration and overhead, designed and conducted to prevent or treat substance use disorder, mental illness, or both in the community behavioral health system.

(14) "Community behavioral health service delivery system" means public, private, or tribal agencies that provide services specifically to persons with mental disorders, substance use disorders, or both, as defined under RCW 71.05.020 and receive funding from public sources.

(15) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally or behaviorally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by behavioral health administrative services organizations.

(16) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(17) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a behavioral health administrative services organization, or two or more of the county authorities specified in this subsection which have entered into an agreement to establish a behavioral health administrative services organization.

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

(19) "Designated crisis responder" has the same meaning as in RCW 71.05.020.

(20) "Director" means the director of the authority.

(21) "Drug addiction" means a disease characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(22) "Early adopter" means a regional service area for which all of the county authorities have requested that the authority purchase medical and behavioral health services through a managed care health system as defined under RCW 71.24.380(6).

(23) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in subsection (24) of this section.

(24) "Evidence-based" means a program or practice that has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome. "Evidence-based" also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(25) "Indian health care provider" means a health care program operated by the Indian health service or by a tribe, tribal organization, or urban Indian organization as those terms are defined in the Indian health care improvement act (25 U.S.C. Sec. 1603).

(26) "Intensive behavioral health treatment facility" means a community-based specialized residential treatment facility for individuals with behavioral health conditions, including individuals discharging from or being diverted from state and local hospitals, whose impairment or behaviors do not meet, or no longer meet, criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based placement settings.

(27) "Licensed or certified behavioral health agency" means:

(a) An entity licensed or certified according to this chapter or chapter 71.05 RCW;

(b) An entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department; or

(c) An entity with a tribal attestation that it meets state minimum standards for a licensed or certified behavioral health agency.

(28) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(29) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

(30) "Managed care organization" means an organization, having a certificate of authority or certificate of registration from the office of the insurance commissioner, that contracts with the authority under a comprehensive risk contract to provide prepaid health care services to enrollees under the authority's managed care programs under chapter 74.09 RCW.

(31) "Mental health peer respite center" means a peer-run program to serve individuals in need of voluntary, short-term, noncrisis services that focus on recovery and wellness.

(32) Mental health "treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department of social and health services or the authority, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, or by treatment facilities. "Treatment records" do not include notes or records maintained for personal use by a person providing treatment services for the entities listed in this

subsection, or a treatment facility if the notes or records are not available to others.

(33) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (11), (40), and (41) of this section.

(34) "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(35) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review supports sustained outcomes as described in subsection (24) of this section but does not meet the full criteria for evidence-based.

(36) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, residential treatment facilities, assisted living facilities, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(37) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(38) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined by a behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated crisis responders, evaluation and treatment facilities, and others as determined by the behavioral health administrative services organization or managed care organization, as applicable.

(39) "Secretary" means the secretary of the department of health.

(40) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;



(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(41) "Severely emotionally disturbed child" or "child who is severely emotionally disturbed" means a child who has been determined by the behavioral health administrative services organization or managed care organization, if applicable, to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a caretaker who is mentally ill or inadequate;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(42) "State minimum standards" means minimum requirements established by rules adopted and necessary to implement this chapter by:

(a) The authority for:

(i) Delivery of mental health and substance use disorder services; and

(ii) Community support services and resource management services;

(b) The department of health for:

(i) Licensed or certified behavioral health agencies for the purpose of providing mental health or substance use disorder programs and services, or both;

(ii) Licensed behavioral health providers for the provision of mental health or substance use disorder services, or both; and

(iii) Residential services.

(43) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

(44) "Tribe," for the purposes of this section, means a federally recognized Indian tribe.

(45) "Crisis call center hub" means a state-designated center participating in the national suicide prevention lifeline network to

respond to statewide or regional 988 calls that meets the requirements of section 102 of this act.

(46) "Crisis stabilization services" means services such as 23-hour crisis stabilization units based on the living room model, crisis stabilization units as provided in RCW 71.05.020, triage facilities as provided in RCW 71.05.020, short-term respite facilities, peer-operated respite services, and same-day walk-in behavioral health services, including within the overall crisis system components that operate like hospital emergency departments that accept all walk-ins, and ambulance, fire, and police drop-offs.

(47) "Mobile rapid response crisis team" means a team that provides professional on-site community-based intervention such as outreach, de-escalation, stabilization, resource connection, and follow-up support for individuals who are experiencing a behavioral health crisis, that shall include peers as a best practice to the extent practicable based on workforce availability, and that meets standards for response times established by the authority.

(48) "988 crisis hotline" means the universal telephone number within the United States designated for the purpose of the national suicide prevention and mental health crisis hotline system operating through the national suicide prevention lifeline.

**Sec. 302.** RCW 71.24.025 and 2020 c 256 s 201 and 2020 c 80 s 52 are each reenacted and amended to read as follows:

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

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(3) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program licensed or certified by the department as meeting standards adopted under this chapter.

(4) "Authority" means the Washington state health care authority.

(5) "Available resources" means funds appropriated for the purpose of providing community behavioral health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other behavioral health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(6) "Behavioral health administrative services organization" means an entity contracted with the authority to administer behavioral health services and programs under RCW 71.24.381, including crisis services and administration of chapter 71.05 RCW, the involuntary treatment act, for all individuals in a defined regional service area.

(7) "Behavioral health aide" means a counselor, health educator, and advocate who helps address individual and community-based behavioral health needs, including those related to alcohol, drug, and tobacco abuse as well as mental health problems such as grief, depression, suicide, and related issues and is certified by a community health aide program of the Indian health service or one or more tribes or tribal organizations consistent with the provisions of 25 U.S.C. Sec. 1616l and RCW 43.71B.010 (7) and (8).

(8) "Behavioral health provider" means a person licensed under chapter 18.57, 18.71, 18.71A, 18.83, 18.205, 18.225, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(9) "Behavioral health services" means mental health services as described in this chapter and chapter 71.36 RCW and substance use disorder treatment services as described in this chapter that, depending on the type of service, are provided by licensed or certified behavioral health agencies, behavioral health providers, or integrated into other health care providers.

(10) "Child" means a person under the age of eighteen years.

(11) "Chronically mentally ill adult" or "adult who is chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the authority by rule consistent with Public Law 92-603, as amended.

(12) "Clubhouse" means a community-based program that provides rehabilitation services and is licensed or certified by the department.

(13) "Community behavioral health program" means all expenditures, services, activities, or programs, including reasonable administration and overhead, designed and conducted to prevent or treat substance use disorder, mental illness, or both in the community behavioral health system.

(14) "Community behavioral health service delivery system" means public, private, or tribal agencies that provide services specifically to persons with mental disorders, substance use disorders, or both, as defined under RCW 71.05.020 and receive funding from public sources.

(15) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally or behaviorally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by behavioral health administrative services organizations.

(16) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(17) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a behavioral health administrative services organization, or two or more of the county authorities specified in this subsection which have entered into an agreement to establish a behavioral health administrative services organization.

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

(19) "Designated crisis responder" has the same meaning as in RCW 71.05.020.

(20) "Director" means the director of the authority.

(21) "Drug addiction" means a disease characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(22) "Early adopter" means a regional service area for which all of the county authorities have requested that the authority purchase medical and behavioral health services through a managed care health system as defined under RCW 71.24.380(6).

(23) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in subsection (24) of this section.

(24) "Evidence-based" means a program or practice that has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome. "Evidence-based" also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(25) "Indian health care provider" means a health care program operated by the Indian health service or by a tribe, tribal organization, or urban Indian organization as those terms are defined in the Indian health care improvement act (25 U.S.C. Sec. 1603).

(26) "Intensive behavioral health treatment facility" means a community-based specialized residential treatment facility for individuals with behavioral health conditions, including individuals discharging from or being diverted from state and local hospitals, whose impairment or behaviors do not meet, or no longer meet, criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based placement settings.

(27) "Licensed or certified behavioral health agency" means:

(a) An entity licensed or certified according to this chapter or chapter 71.05 RCW;

(b) An entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department; or

(c) An entity with a tribal attestation that it meets state minimum standards for a licensed or certified behavioral health agency.

(28) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(29) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

(30) "Managed care organization" means an organization, having a certificate of authority or certificate of registration from the office of the insurance commissioner, that contracts with the authority under a comprehensive risk contract to provide prepaid health care services to enrollees under the authority's managed care programs under chapter 74.09 RCW.

(31) "Mental health peer respite center" means a peer-run program to serve individuals in need of voluntary, short-term, noncrisis services that focus on recovery and wellness.

(32) Mental health "treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department of social and health services or the authority, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, or by treatment facilities. "Treatment records" do not include notes or records maintained for personal use by a person providing treatment services for the entities listed in this subsection, or a treatment facility if the notes or records are not available to others.

(33) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (11), (40), and (41) of this section.

(34) "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(35) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review supports sustained outcomes as described in subsection (24) of this section but does not meet the full criteria for evidence-based.

(36) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, residential treatment facilities, assisted living facilities, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental

disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(37) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(38) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined by a behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven days a week, twenty-four hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated crisis responders, evaluation and treatment facilities, and others as determined by the behavioral health administrative services organization or managed care organization, as applicable.

(39) "Secretary" means the secretary of the department of health.

(40) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(41) "Severely emotionally disturbed child" or "child who is severely emotionally disturbed" means a child who has been determined by the behavioral health administrative services organization or managed care organization, if applicable, to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a caretaker who is mentally ill or inadequate;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(42) "State minimum standards" means minimum requirements established by rules adopted and necessary to implement this chapter by:

(a) The authority for:

(i) Delivery of mental health and substance use disorder services; and

(ii) Community support services and resource management services;

(b) The department of health for:

(i) Licensed or certified behavioral health agencies for the purpose of providing mental health or substance use disorder programs and services, or both;

(ii) Licensed behavioral health providers for the provision of mental health or substance use disorder services, or both; and

(iii) Residential services.

(43) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

(44) "Tribe," for the purposes of this section, means a federally recognized Indian tribe.

(45) "Crisis call center hub" means a state-designated center participating in the national suicide prevention lifeline network to respond to statewide or regional 988 calls that meets the requirements of section 102 of this act.

(46) "Crisis stabilization services" means services such as 23-hour crisis stabilization units based on the living room model, crisis stabilization units as provided in RCW 71.05.020, triage facilities as provided in RCW 71.05.020, short-term respite facilities, peer-operated respite services, and same-day walk-in behavioral health services, including within the overall crisis system components that operate like hospital emergency departments that accept all walk-ins, and ambulance, fire, and police drop-offs.

(47) "Mobile rapid response crisis team" means a team that provides professional on-site community-based intervention such as outreach, de-escalation, stabilization, resource connection, and follow-up support for individuals who are experiencing a behavioral health crisis, that shall include peers as a best practice to the extent practicable based on workforce availability, and that meets standards for response times established by the authority.

(48) "988 crisis hotline" means the universal telephone number within the United States designated for the purpose of the national suicide prevention and mental health crisis hotline system operating through the national suicide prevention lifeline.

NEW SECTION. Sec. 303. Sections 201 through 205 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. Sec. 304. Sections 201 through 205 of this act take effect October 1, 2021.

NEW SECTION. Sec. 305. Section 301 of this act expires July 1, 2022.

NEW SECTION. Sec. 306. Section 302 of this act takes effect July 1, 2022.

NEW SECTION. Sec. 307. Section 103 of this act is necessary for the immediate preservation of the public peace,

health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 308. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void."

On page 1, line 4 of the title, after "services;" strike the remainder of the title and insert "reenacting and amending RCW 71.24.025 and 71.24.025; adding new sections to chapter 71.24 RCW; adding a new section to chapter 48.43 RCW; adding a new chapter to Title 82 RCW; creating new sections; prescribing penalties; providing effective dates; providing expiration dates; and declaring an emergency."

Senator Dhingra spoke in favor of not adopting of the committee striking amendment.

The President declared the question before the Senate to be to not adopt of the committee striking amendment by the Committee on Behavioral Health Subcommittee to Health & Long Term Care to Engrossed Second Substitute House Bill No. 1477.

The motion by Senator Dhingra carried and the committee striking amendment was not adopted by voice vote.

#### MOTION

Senator Dhingra moved that the following striking floor amendment no. 830 by Senator Dhingra be adopted:

Strike everything after the enacting clause and insert the following:

#### "PART I

#### CRISIS CALL CENTER HUBS AND CRISIS SERVICES

NEW SECTION. Sec. 101. (1) The legislature finds that:

(a) Nearly 6,000 Washington adults and children died by suicide in the last five years, according to the federal centers for disease control and prevention, tragically reflecting a state increase of 36 percent in the last 10 years.

(b) Suicide is now the single leading cause of death for Washington young people ages 10 through 24, with total deaths 22 percent higher than for vehicle crashes.

(c) Groups with suicide rates higher than the general population include veterans, American Indians/Alaska Natives, LGBTQ youth, and people living in rural counties across the state.

(d) More than one in five Washington residents are currently living with a behavioral health disorder.

(e) The COVID-19 pandemic has increased stressors and substance use among Washington residents.

(f) An improved crisis response system will reduce reliance on emergency room services and the use of law enforcement response to behavioral health crises and will stabilize individuals in the community whenever possible.

(g) To accomplish effective crisis response and suicide prevention, Washington state must continue its integrated approach to address mental health and substance use disorder in tandem under the umbrella of behavioral health disorders, consistently with chapter 71.24 RCW and the state's approach to integrated health care. This is particularly true in the domain of suicide prevention, because of the prevalence of substance use as both a risk factor and means for suicide.

(2) The legislature intends to:

(a) Establish crisis call center hubs and expand the crisis response system in a deliberate, phased approach that includes the involvement of partners from a range of perspectives to:

(i) Save lives by improving the quality of and access to behavioral health crisis services;

(ii) Further equity in addressing mental health and substance use treatment and assure a culturally and linguistically competent response to behavioral health crises;

(iii) Recognize that, historically, crisis response placed marginalized communities, including those experiencing behavioral health crises, at disproportionate risk of poor outcomes and criminal justice involvement;

(iv) Comply with the national suicide hotline designation act of 2020 and the federal communications commission's rules adopted July 16, 2020, to assure that all Washington residents receive a consistent and effective level of 988 suicide prevention and other behavioral health crisis response services no matter where they live, work, or travel in the state; and

(v) Provide higher quality support for people experiencing behavioral health crises through investment in new technology to create a crisis call center hub system to triage calls and link individuals to follow-up care.

(b) Make additional investments to enhance the crisis response system, including the expansion of crisis teams, to be known as mobile rapid response crisis teams, and deployment of a wide array of crisis stabilization services, such as 23-hour crisis stabilization units based on the living room model, crisis stabilization centers, short-term respite facilities, peer-run respite centers, and same-day walk-in behavioral health services. The overall crisis system shall contain components that operate like hospital emergency departments that accept all walk-ins and ambulance, fire, and police drop-offs. Certified peer counselors as well as peers in other roles providing support must be incorporated within the crisis system and along the continuum of crisis care.

**NEW SECTION. Sec. 102.** A new section is added to chapter 71.24 RCW to read as follows:

(1) Establishing the state crisis call center hubs and enhancing the crisis response system will require collaborative work between the department and the authority within their respective roles. The department shall have primary responsibility for establishing and designating the crisis call center hubs. The authority shall have primary responsibility for developing and implementing the crisis response system and services to support the work of the crisis call center hubs. In any instance in which one agency is identified as the lead, the expectation is that agency will be communicating and collaborating with the other to ensure seamless, continuous, and effective service delivery within the statewide crisis response system.

(2) The department shall provide adequate funding for the state's crisis call centers to meet an expected increase in the use of the call centers based on the implementation of the 988 crisis hotline. The funding level shall be established at a level anticipated to achieve an in-state call response rate of at least 90 percent by July 22, 2022, and an in-state call response rate of at least 95 percent by July 1, 2023. The funding level shall be determined by considering standards and cost per call predictions provided by the administrator of the national suicide prevention lifeline, call volume predictions, guidance on crisis call center performance metrics, and necessary technology upgrades.

(3) The department shall adopt rules by July 1, 2023, to establish standards for designation of crisis call centers as crisis call center hubs. The department shall collaborate with the authority and other agencies to assure coordination and availability of services, and shall consider national guidelines for behavioral health crisis care as determined by the federal substance abuse and mental health services administration,

national behavioral health accrediting bodies, and national behavioral health provider associations to the extent they are appropriate, and recommendations from the crisis response improvement strategy committee created in section 103 of this act.

(4) The department shall designate crisis call center hubs by July 1, 2024. The crisis call center hubs shall provide crisis intervention services, triage, care coordination, referrals, and connections to individuals contacting the 988 crisis hotline from any jurisdiction within Washington 24 hours a day, seven days a week, using the system platform developed under subsection (5) of this section.

(a) To be designated as a crisis call center hub, the applicant must demonstrate to the department the ability to comply with the requirements of this section and to contract to provide crisis call center hub services. The department may revoke the designation of any crisis call center hub that fails to substantially comply with the contract.

(b) The contracts entered shall require designated crisis call center hubs to:

(i) Have an active agreement with the administrator of the national suicide prevention lifeline for participation within its network;

(ii) Meet the requirements for operational and clinical standards established by the department and based upon the national suicide prevention lifeline best practices guidelines and other recognized best practices;

(iii) Employ highly skilled and trained clinical staff with at least a bachelors or masters level of education, as appropriate, who have sufficient training and resources to provide empathy to callers in acute distress, de-escalate crises, assess behavioral health disorders and suicide risk, triage to system partners, and provide case management and documentation. Call center staff shall be trained to make every effort to resolve cases in the least restrictive environment and without law enforcement involvement whenever possible. Call center staff shall coordinate with certified peer counselors to provide follow-up and outreach to callers in distress as available. It is intended for transition planning to include a pathway for continued employment and skill advancement as needed for experienced crisis call center employees;

(iv) Collaborate with the authority, the national suicide prevention lifeline, and veterans crisis line networks to assure consistency of public messaging about the 988 crisis hotline; and

(v) Provide data and reports and participate in evaluations and related quality improvement activities, according to standards established by the department in collaboration with the authority.

(c) The department and the authority shall incorporate recommendations from the crisis response improvement strategy committee created under section 103 of this act in its agreements with crisis call center hubs, as appropriate.

(5) The department and authority must coordinate to develop the technology and platforms necessary to manage and operate the behavioral health crisis response and suicide prevention system. The technologies developed must include:

(a) A new technologically advanced behavioral health and suicide prevention crisis call center system platform using technology demonstrated to be interoperable across crisis and emergency response systems used throughout the state, such as 911 systems, emergency medical services systems, emergency departments, and other nonbehavioral health crisis services, for use in crisis call center hubs designated by the department under subsection (4) of this section. This platform, which shall be fully funded by July 1, 2023, shall be developed by the department and

must include the capacity to receive crisis assistance requests through phone calls, texts, chats, and other similar methods of communication that may be developed in the future that promote access to the behavioral health crisis system; and

(b) A behavioral health integrated client referral system capable of providing system coordination information to crisis call center hubs and the other entities involved in behavioral health care. This system shall be developed by the authority.

(6) In developing the new technologies under subsection (5) of this section, the department and the authority must coordinate to designate a primary technology system to provide each of the following:

(a) Access to real-time information relevant to the coordination of behavioral health crisis response services;

(b) The means to request deployment of appropriate crisis response services, which may include mobile rapid response crisis teams, co-responder teams, designated crisis responders, fire department mobile integrated health teams, or community assistance referral and educational services programs under RCW 35.21.930, according to best practice guidelines established by the authority, and track local response through global positioning technology; and

(c) The means to track the outcome of the 988 call to enable appropriate follow up, cross-system coordination, and accountability, including as appropriate: (i) Any immediate services dispatched and reports generated from the encounter; (ii) the validation of a safety plan established for the caller in accordance with best practices; (iii) the next steps for the caller to follow in transition to noncrisis follow-up care, including a next-day appointment for callers experiencing urgent, symptomatic behavioral health care needs; and (iv) the means to verify and document whether the caller was successful in making the transition to appropriate noncrisis follow-up care indicated in the safety plan for the person, to be completed either by the care coordinator provided through the person's managed care organization, health plan, or behavioral health administrative services organization, or if such a care coordinator is not available or does not follow through, by the staff of the crisis call center hub;

(d) Real-time bed availability for all behavioral health bed types, including but not limited to crisis stabilization services, triage facilities, psychiatric inpatient, substance use disorder inpatient, withdrawal management, peer-run respite centers, and crisis respite services, inclusive of both voluntary and involuntary beds, for use by crisis response workers, first responders, health care providers, and individuals in crisis;

(e) Real-time information relevant to the coordination of behavioral health crisis response services for a person, including the means to access: (i) Information about any less restrictive alternative treatment orders or mental health advance directives related to the person; and (ii) information necessary to enable the crisis call center hub to actively collaborate with primary care providers and behavioral health providers within managed care organizations, behavioral health administrative services organizations, and other health care payers to establish a safety plan for the person and provide the next steps for the person's transition to follow up noncrisis care. To establish information sharing guidelines that fulfill the intent of this section the authority shall consider input from the confidential information compliance and coordination subcommittee established under section 103 of this act;

(f) A means to facilitate actions to verify and document whether the person's transition to follow up noncrisis care was completed and services offered, to be performed by a care coordinator provided through the person's managed care

organization, health plan, or behavioral health administrative services organization, or if such a care coordinator is not available or does not follow through, by the staff of the crisis call center hub;

(g) The means to provide geographically, culturally, and linguistically appropriate services to persons who are part of high-risk populations or otherwise have need of specialized services or accommodations, and to document these services or accommodations; and

(h) When appropriate, consultation with tribal governments to ensure coordinated care in government-to-government relationships, and access to dedicated services to tribal members.

(7) To implement this section the department and the authority shall collaborate with the state enhanced 911 coordination office, emergency management division, and military department to develop technology that is demonstrated to be interoperable between the 988 crisis hotline system and crisis and emergency response systems used throughout the state, such as 911 systems, emergency medical services systems, and other nonbehavioral health crisis services, as well as the national suicide prevention lifeline, to assure cohesive interoperability, develop training programs and operations for both 911 public safety telecommunicators and crisis line workers, develop suicide and other behavioral health crisis assessments and intervention strategies, and establish efficient and equitable access to resources via crisis hotlines.

(8) The authority shall:

(a) Collaborate with county authorities and behavioral health administrative services organizations to develop procedures to dispatch behavioral health crisis services in coordination with crisis call center hubs to effectuate the intent of this section;

(b) Establish formal agreements with managed care organizations and behavioral health administrative services organizations to provide for the services, capacities, and coordination necessary to effectuate the intent of this section, which shall include a requirement to arrange next-day appointments for persons contacting the 988 crisis hotline experiencing urgent, symptomatic behavioral health care needs with geographically, culturally, and linguistically appropriate primary care or behavioral health providers within the person's provider network, or, if uninsured, through the person's behavioral health administrative services organization;

(c) Create best practices guidelines by July 1, 2023, for deployment of appropriate and available crisis response services by crisis call center hubs to assist 988 hotline callers to minimize nonessential reliance on emergency room services and the use of law enforcement, considering input from relevant stakeholders and recommendations made by the crisis response improvement strategy committee created under section 103 of this act;

(d) Develop procedures to allow appropriate information sharing and communication between and across crisis and emergency response systems for the purpose of real-time crisis care coordination including, but not limited to, deployment of crisis and outgoing services, follow-up care, and linked, flexible services specific to crisis response; and

(e) Establish guidelines to appropriately serve high-risk populations who request crisis services. The authority shall design these guidelines to promote behavioral health equity for all populations with attention to circumstances of race, ethnicity, gender, socioeconomic status, sexual orientation, and geographic location, and include components such as training requirements for call response workers, policies for transferring such callers to an appropriate specialized center or subnetwork within or external to the national suicide prevention lifeline network, and procedures for referring persons who access the 988 crisis hotline

to linguistically and culturally competent care.

**NEW SECTION. Sec. 103.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The crisis response improvement strategy committee is established for the purpose of providing advice in developing an integrated behavioral health crisis response and suicide prevention system containing the elements described in this section. The work of the committee shall be received and reviewed by a steering committee, which shall in turn form subcommittees to provide the technical analysis and input needed to formulate system change recommendations.

(2) The office of financial management shall contract with the behavioral health institute at Harborview medical center to facilitate and provide staff support to the steering committee and to the crisis response improvement strategy committee.

(3) The steering committee shall select three cochairs from among its members to lead the crisis response improvement strategy committee. The crisis response improvement strategy committee shall consist of the following members, who shall be appointed or requested by the authority, unless otherwise noted:

(a) The director of the authority, or his or her designee, who shall also serve on the steering committee;

(b) The secretary of the department, or his or her designee, who shall also serve on the steering committee;

(c) A member representing the office of the governor, who shall also serve on the steering committee;

(d) The Washington state insurance commissioner, or his or her designee;

(e) Up to two members representing federally recognized tribes, one from eastern Washington and one from western Washington, who have expertise in behavioral health needs of their communities;

(f) One member from each of the two largest caucuses of the senate, one of whom shall also be designated to participate on the steering committee, to be appointed by the president of the senate;

(g) One member from each of the two largest caucuses of the house of representatives, one of whom shall also be designated to participate on the steering committee, to be appointed by the speaker of the house of representatives;

(h) The director of the Washington state department of veterans affairs, or his or her designee;

(i) The state enhanced 911 coordinator, or his or her designee;

(j) A member with lived experience of a suicide attempt;

(k) A member with lived experience of a suicide loss;

(l) A member with experience of participation in the crisis system related to lived experience of a mental health disorder;

(m) A member with experience of participation in the crisis system related to lived experience with a substance use disorder;

(n) A member representing each crisis call center in Washington that is contracted with the national suicide prevention lifeline;

(o) Up to two members representing behavioral health administrative services organizations, one from an urban region and one from a rural region;

(p) A member representing the Washington council for behavioral health;

(q) A member representing the association of alcoholism and addiction programs of Washington state;

(r) A member representing the Washington state hospital association;

(s) A member representing the national alliance on mental illness Washington;

(t) A member representing the behavioral health interests of persons of color recommended by Sea Mar community health

centers;

(u) A member representing the behavioral health interests of persons of color recommended by Asian counseling and referral service;

(v) A member representing law enforcement;

(w) A member representing a university-based suicide prevention center of excellence;

(x) A member representing an emergency medical services department with a CARES program;

(y) A member representing medicaid managed care organizations, as recommended by the association of Washington healthcare plans;

(z) A member representing commercial health insurance, as recommended by the association of Washington healthcare plans;

(aa) A member representing the Washington association of designated crisis responders;

(bb) A member representing the children and youth behavioral health work group;

(cc) A member representing a social justice organization addressing police accountability and the use of deadly force; and

(dd) A member representing an organization specializing in facilitating behavioral health services for LGBTQ populations.

(4) The crisis response improvement strategy committee shall assist the steering committee to identify potential barriers and make recommendations necessary to implement and effectively monitor the progress of the 988 crisis hotline in Washington and make recommendations for the statewide improvement of behavioral health crisis response services.

(5) The steering committee must develop a comprehensive assessment of the behavioral health crisis response services system by January 1, 2022, including an inventory of existing statewide and regional behavioral health crisis response and crisis stabilization services and resources, and taking into account capital projects which are planned and funded. The comprehensive assessment shall identify:

(a) Statewide and regional insufficiencies and gaps in behavioral health crisis response services and resources needed to meet population needs;

(b) Quantifiable goals for the provision of statewide and regional behavioral health crisis services and targeted deployment of resources, which consider factors such as reported rates of involuntary commitment detentions, single-bed certifications, suicide attempts and deaths, substance use disorder-related overdoses, overdose or withdrawal-related deaths, and incarcerations due to a behavioral health incident;

(c) A process for establishing outcome measures, benchmarks, and improvement targets, for the crisis response system; and

(d) Potential funding sources to provide statewide and regional behavioral health crisis services and resources.

(6) The steering committee, taking into account the comprehensive assessment work under subsection (5) of this section as it becomes available, after discussion with the crisis response improvement strategy committee and hearing reports from the subcommittees, shall report on the following:

(a) A recommended vision for an integrated crisis network in Washington that includes, but is not limited to: An integrated 988 crisis hotline and crisis call center hubs; mobile rapid response crisis teams; mobile crisis response units for youth, adult, and geriatric population; a range of crisis stabilization services; an integrated involuntary treatment system; access to peer-run services, including peer-run respite centers; adequate crisis respite services; and data resources;

(b) Recommendations to promote equity in services for individuals of diverse circumstances of culture, race, ethnicity,

gender, socioeconomic status, sexual orientation, and for individuals in tribal, urban, and rural communities;

(c) Recommendations for a work plan with timelines to implement appropriate local responses to calls to the 988 crisis hotline within Washington in accordance with the time frames required by the national suicide hotline designation act of 2020;

(d) The necessary components of a new statewide, technologically advanced behavioral health and suicide prevention crisis call center system with a platform, as described in section 102 of this act, for assigning and tracking response to behavioral health crisis calls and providing real-time bed and outpatient appointment availability to 988 operators, designated crisis responders, and other behavioral health crisis responders, which shall include but not be limited to:

(i) Identification of the components crisis call center hub staff need to effectively coordinate crisis response services and find available beds and available primary care and behavioral health outpatient appointments;

(ii) Evaluation of existing bed tracking models currently utilized by other states and identifying the model most suitable to Washington's crisis behavioral health system;

(iii) Evaluation of whether bed tracking will improve access to all behavioral health bed types and other impacts and benefits;

(iv) Exploration of how the bed tracking and outpatient appointment availability platform can facilitate more timely access to care and other impacts and benefits; and

(v) The necessary systems and capabilities that licensed or certified behavioral health agencies, behavioral health providers, and any other relevant parties will require to report, maintain, and update inpatient and residential bed and outpatient service availability in real-time to correspond with the crisis call center system platform identified in section 102 of this act;

(e) A work plan to establish the capacity for the crisis call center hubs to integrate Spanish language interpreters and Spanish-speaking call center staff into their operations, and to ensure the availability of resources to meet the unique needs of persons in the agricultural community who are experiencing mental health stresses, which explicitly addresses concerns regarding confidentiality;

(f) A work plan with timelines to enhance and expand the availability of community-based mobile rapid response crisis teams based in each region, including specialized teams as appropriate to respond to the unique needs of youth, including American Indian and Alaska Native youth and LGBTQ youth, and geriatric populations, including older adults of color and older adults with comorbid dementia;

(g) The identification of other personal and systemic behavioral health challenges which implementation of the 988 crisis hotline has the potential to address in addition to suicide response and behavioral health crises;

(h) The development of a plan for the statewide equitable distribution of crisis stabilization services, behavioral health beds, and peer-run respite services;

(i) Recommendations concerning how health plans, managed care organizations, and behavioral health administrative services organizations shall fulfill requirements to provide assignment of a care coordinator and to provide next-day appointments for enrollees who contact the behavioral health crisis system;

(j) Appropriate allocation of crisis system funding responsibilities among medicaid managed care organizations, commercial insurers, and behavioral health administrative services organizations;

(k) Recommendations for constituting a statewide behavioral health crisis response oversight board or similar structure for ongoing monitoring of the behavioral health crisis system and

where this should be established; and

(l) Cost estimates for each of the components of the integrated behavioral health crisis response and suicide prevention system.

(7) The steering committee shall consist only of members appointed to the steering committee under this section. The steering committee shall convene the committee, form subcommittees, assign tasks to the subcommittees, and establish a schedule of meetings and their agendas.

(8) The subcommittees of the crisis response improvement strategy committee shall focus on discrete topics. The subcommittees may include participants who are not members of the crisis response improvement strategy committee, as needed to provide professional expertise and community perspectives. Each subcommittee shall have at least one member representing the interests of stakeholders in a rural community, at least one member representing the interests of stakeholders in an urban community, and at least one member representing the interests of youth stakeholders. The steering committee shall form the following subcommittees:

(a) A Washington tribal 988 subcommittee, which shall examine and make recommendations with respect to the needs of tribes related to the 988 system, and which shall include representation from the American Indian health commission;

(b) A credentialing and training subcommittee, to recommend workforce needs and requirements necessary to implement this act, including minimum education requirements such as whether it would be appropriate to allow crisis call center hubs to employ clinical staff without a bachelor's degree or master's degree based on the person's skills and life or work experience;

(c) A technology subcommittee, to examine issues and requirements related to the technology needed to implement this act;

(d) A cross-system crisis response collaboration subcommittee, to examine and define the complementary roles and interactions between mobile rapid response crisis teams, designated crisis responders, law enforcement, emergency medical services teams, 911 and 988 operators, public and private health plans, behavioral health crisis response agencies, nonbehavioral health crisis response agencies, and others needed to implement this act;

(e) A confidential information compliance and coordination subcommittee, to examine issues relating to sharing and protection of health information needed to implement this act; and

(f) Any other subcommittee needed to facilitate the work of the committee, at the discretion of the steering committee.

(9) The proceedings of the crisis response improvement strategy committee must be open to the public and invite testimony from a broad range of perspectives. The committee shall seek input from tribes, veterans, the LGBTQ community, and communities of color to help discern how well the crisis response system is currently working and recommend ways to improve the crisis response system.

(10) Legislative members of the crisis response improvement strategy committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(11) The steering committee, with the advice of the crisis response improvement strategy committee, shall provide a progress report and the result of its comprehensive assessment under subsection (5) of this section to the governor and appropriate policy and fiscal committee of the legislature by January 1, 2022. The steering committee shall report the crisis



response improvement strategy committee's further progress and the steering committee's recommendations related to crisis call center hubs to the governor and appropriate policy and fiscal committees of the legislature by January 1, 2023. The steering committee shall provide its final report to the governor and the appropriate policy and fiscal committees of the legislature by January 1, 2024.

(12) This section expires June 30, 2024.

**NEW SECTION. Sec. 104.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The steering committee of the crisis response improvement strategy committee established under section 103 of this act must monitor and make recommendations related to the funding of crisis response services out of the account created in section 205 of this act. The crisis response improvement strategy steering committee must analyze:

(a) The projected expenditures from the account created under section 205 of this act, taking into account call volume, utilization projections, and other operational impacts;

(b) The costs of providing statewide coverage of mobile rapid response crisis teams or other behavioral health first responder services recommended by the crisis response improvement strategy committee, based on 988 crisis hotline utilization and taking into account existing state and local funding;

(c) Potential options to reduce the tax imposed in section 202 of this act, given the expected level of costs related to infrastructure development and operational support of the 988 crisis hotline and crisis call center hubs; and

(d) The viability of providing funding for in-person mobile rapid response crisis services or other behavioral health first responder services recommended by the crisis response improvement strategy committee funded from the account created in section 205 of this act, given the expected revenues to the account and the level of expenditures required under (a) of this subsection.

(2) If the steering committee finds that funding in-person mobile rapid response crisis services or other behavioral health first responder services recommended by the crisis response improvement strategy committee is viable from the account given the level of expenditures necessary to support the infrastructure development and operational support of the 988 crisis hotline and crisis call center hubs, the steering committee must analyze options for the location and composition of such services given need and available resources with the requirement that funds from the account supplement, not supplant, existing behavioral health crisis funding.

(3) The work of the steering committee under this section must be facilitated by the behavioral health institute at Harborview medical center through its contract with the office of financial management under section 103 of this act with assistance provided by staff from senate committee services, the office of program research, and the office of financial management.

(4) The steering committee shall submit preliminary recommendations to the governor and the appropriate policy and fiscal committees of the legislature by January 1, 2022, and final recommendations to the governor and the appropriate policy and fiscal committees of the legislature by January 1, 2023.

(5) This section expires on July 1, 2023.

**NEW SECTION. Sec. 105.** A new section is added to chapter 71.24 RCW to read as follows:

(1) The department and authority shall provide an annual report regarding the usage of the 988 crisis hotline, call outcomes, and the provision of crisis services inclusive of mobile rapid response crisis teams and crisis stabilization services. The report shall be

submitted to the governor and the appropriate committees of the legislature each November beginning in 2023. The report shall include information on the fund deposits and expenditures of the account created in section 205 of this act.

(2) The department and authority shall coordinate with the department of revenue, and any other agency that is appropriated funding under the account created in section 205 of this act, to develop and submit information to the federal communications commission required for the completion of fee accountability reports pursuant to the national suicide hotline designation act of 2020.

(3) The joint legislative audit and review committee shall schedule an audit to begin after the full implementation of this act, to provide transparency as to how funds from the statewide 988 behavioral health crisis response and suicide prevention line account have been expended, and to determine whether funds used to provide acute behavioral health, crisis outreach, and stabilization services are being used to supplement services identified as baseline services in the comprehensive analysis provided under section 103 of this act, or to supplant baseline services. The committee shall provide a report by November 1, 2027, which includes recommendations as to the adequacy of the funding provided to accomplish the intent of the act and any other recommendations for alteration or improvement.

**NEW SECTION. Sec. 106.** A new section is added to chapter 48.43 RCW to read as follows:

Health plans issued or renewed on or after January 1, 2023, must make next-day appointments available to enrollees experiencing urgent, symptomatic behavioral health conditions to receive covered behavioral health services. The appointment may be with a licensed provider other than a licensed behavioral health professional, as long as that provider is acting within their scope of practice, and may be provided through telemedicine consistent with RCW 48.43.735. Need for urgent symptomatic care is associated with the presentation of behavioral health signs or symptoms that require immediate attention, but are not emergent.

**NEW SECTION. Sec. 107.** A new section is added to chapter 43.06 RCW to read as follows:

(1) The governor shall appoint a 988 hotline and behavioral health crisis system coordinator to provide project coordination and oversight for the implementation and administration of the 988 crisis hotline, other requirements of this act, and other projects supporting the behavioral health crisis system. The coordinator shall:

(a) Oversee the collaboration between the department of health and the health care authority in their respective roles in supporting the crisis call center hubs, providing the necessary support services for 988 callers, and establishing adequate requirements and guidance for their contractors to fulfill the requirements of this act;

(b) Ensure coordination and facilitate communication between stakeholders such as crisis call center hub contractors, behavioral health administrative service organizations, county authorities, other crisis hotline centers, managed care organizations, and, in collaboration with the state enhanced 911 coordination office, with 911 emergency communications systems;

(c) Review the development of adequate and consistent training for crisis call center personnel and, in coordination with the state enhanced 911 coordination office, for 911 operators with respect to their interactions with the crisis hotline center; and

(d) Coordinate implementation of other behavioral health initiatives among state agencies and educational institutions, as appropriate, including coordination of data between agencies.

(2) This section expires June 30, 2024.

**PART II  
TAX**

**NEW SECTION. Sec. 201. DEFINITIONS.** (1) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(a) "988 crisis hotline" has the same meaning as in RCW 71.24.025.

(b) "Crisis call center hub" has the same meaning as in RCW 71.24.025.

(2) The definitions in RCW 82.14B.020 apply to this chapter.

**NEW SECTION. Sec. 202. TAX IMPOSED.** (1)(a) A statewide 988 behavioral health crisis response and suicide prevention line tax is imposed on the use of all radio access lines:

(i) By subscribers whose place of primary use is located within the state in the amount set forth in (a)(ii) of this subsection (1) per month for each radio access line. The tax must be uniform for each radio access line under this subsection (1); and

(ii) By consumers whose retail transaction occurs within the state in the amount set forth in this subsection (1)(a)(ii) per retail transaction. The amount of tax must be uniform for each retail transaction under this subsection (1) and is as follows:

(A) Beginning October 1, 2021, through December 31, 2022, the tax rate is 30 cents for each radio access line; and

(B) Beginning January 1, 2023, the tax rate is 50 cents for each radio access line.

(b) The tax imposed under this subsection (1) must be remitted to the department by radio communications service companies, including those companies that resell radio access lines, and sellers of prepaid wireless telecommunications service, on a tax return provided by the department. Tax proceeds must be deposited by the treasurer into the statewide 988 behavioral health crisis response and suicide prevention line account created in section 205 of this act.

(c) For the purposes of this subsection (1), the retail transaction is deemed to occur at the location where the transaction is sourced under RCW 82.32.520(3)(c).

(2) A statewide 988 behavioral health crisis response and suicide prevention line tax is imposed on all interconnected voice over internet protocol service lines in the state. The amount of tax must be uniform for each line and must be levied on no more than the number of voice over internet protocol service lines on an account that is capable of simultaneous unrestricted outward calling to the public switched telephone network. The tax imposed under this subsection (2) must be remitted to the department by interconnected voice over internet protocol service companies on a tax return provided by the department. The amount of tax for each interconnected voice over internet protocol service line whose place of primary use is located in the state is as follows:

(a) Beginning October 1, 2021, through December 31, 2022, the tax rate is 30 cents for an interconnected voice over internet protocol service line; and

(b) Beginning January 1, 2023, the tax rate is 50 cents for an interconnected voice over internet protocol service line.

(3) A statewide 988 behavioral health crisis response and suicide prevention line tax is imposed on all switched access lines in the state. The amount of tax must be uniform for each line and must be levied on no more than the number of switched access lines on an account that is capable of simultaneous unrestricted outward calling to the public switched telephone network. The tax imposed under this subsection (3) must be remitted to the department by local exchange companies on a tax return provided by the department. The amount of tax for each switched access line whose place of primary use is located in the state is as follows:

(a) Beginning October 1, 2021, through December 31, 2022, the tax rate is 30 cents for each switched access line; and

(b) Beginning January 1, 2023, the tax rate is 50 cents for each switched access line.

(4) Tax proceeds collected pursuant to this section must be deposited by the treasurer into the statewide 988 behavioral health crisis response and suicide prevention line account created in section 205 of this act.

**NEW SECTION. Sec. 203. COLLECTION OF TAX.** (1) Except as provided otherwise in subsection (2) of this section:

(a) The statewide 988 behavioral health crisis response and suicide prevention line tax on radio access lines must be collected from the subscriber by the radio communications service company, including those companies that resell radio access lines, providing the radio access line to the subscriber, and the seller of prepaid wireless telecommunications services.

(b) The statewide 988 behavioral health crisis response and suicide prevention line tax on interconnected voice over internet protocol service lines must be collected from the subscriber by the interconnected voice over internet protocol service company providing the interconnected voice over internet protocol service line to the subscriber.

(c) The statewide 988 behavioral health crisis response and suicide prevention line tax on switched access lines must be collected from the subscriber by the local exchange company.

(d) The amount of the tax must be stated separately on the billing statement which is sent to the subscriber.

(2)(a) The statewide 988 behavioral health crisis response and suicide prevention line tax imposed by this chapter must be collected from the consumer by the seller of a prepaid wireless telecommunications service for each retail transaction occurring in this state.

(b) The department must transfer all tax proceeds remitted by a seller under this subsection (2) to the statewide 988 behavioral health crisis response and suicide prevention line account created in section 205 of this act.

(c) The taxes required by this subsection to be collected by the seller must be separately stated in any sales invoice or instrument of sale provided to the consumer.

**NEW SECTION. Sec. 204. PAYMENT AND COLLECTION.** (1)(a) The statewide 988 behavioral health crisis response and suicide prevention line tax imposed by this chapter must be paid by the subscriber to the radio communications service company providing the radio access line, the local exchange company, or the interconnected voice over internet protocol service company providing the interconnected voice over internet protocol service line.

(b) Each radio communications service company, each local exchange company, and each interconnected voice over internet protocol service company, must collect from the subscriber the full amount of the taxes payable. The statewide 988 behavioral health crisis response and suicide prevention line tax required by this chapter to be collected by a company or seller, are deemed to be held in trust by the company or seller until paid to the department. Any radio communications service company, local exchange company, or interconnected voice over internet protocol service company that appropriates or converts the tax collected to its own use or to any use other than the payment of the tax to the extent that the money collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(2) If any radio communications service company, local exchange company, or interconnected voice over internet protocol service company fails to collect the statewide 988 behavioral health crisis response and suicide prevention line tax

or, after collecting the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of its own act or the result of acts or conditions beyond its control, the company or seller is personally liable to the state for the amount of the tax, unless the company or seller has taken from the buyer in good faith documentation, in a form and manner prescribed by the department, stating that the buyer is not a subscriber or consumer or is otherwise not liable for the statewide 988 behavioral health crisis response and suicide prevention line tax.

(3) The amount of tax, until paid by the subscriber to the radio communications service company, local exchange company, the interconnected voice over internet protocol service company, or to the department, constitutes a debt from the subscriber to the company, or from the consumer to the seller. Any company or seller that fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any subscriber or consumer who refuses to pay any tax due under this chapter is guilty of a misdemeanor. The statewide 988 behavioral health crisis response and suicide prevention line tax required by this chapter to be collected by the radio communications service company, local exchange company, or interconnected voice over internet protocol service company must be stated separately on the billing statement that is sent to the subscriber.

(4) If a subscriber has failed to pay to the radio communications service company, local exchange company, or interconnected voice over internet protocol service company, the statewide 988 behavioral health crisis response and suicide prevention line tax imposed by this chapter and the company or seller has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the subscriber or consumer for collection of the tax, in which case a penalty of 10 percent may be added to the amount of the tax for failure of the subscriber or consumer to pay the tax to the company or seller, regardless of when the tax is collected by the department.

**NEW SECTION. Sec. 205. ACCOUNT CREATION.** (1) The statewide 988 behavioral health crisis response and suicide prevention line account is created in the state treasury. All receipts from the statewide 988 behavioral health crisis response and suicide prevention line tax imposed pursuant to this chapter must be deposited into the account. Moneys may only be spent after appropriation.

(2) Expenditures from the account may only be used for (a) ensuring the efficient and effective routing of calls made to the 988 crisis hotline to an appropriate crisis hotline center or crisis call center hub; and (b) personnel and the provision of acute behavioral health, crisis outreach, and crisis stabilization services, as defined in RCW 71.24.025, by directly responding to the 988 crisis hotline.

(3) Moneys in the account may not be used to supplant general fund appropriations for behavioral health services or for medicaid covered services to individuals enrolled in the medicaid program.

**NEW SECTION. Sec. 206. PREEMPTION.** A city or county may not impose a tax, measured on a per line basis, on radio access lines, interconnected voice over internet protocol service lines, or switched access lines, for the purpose of ensuring the efficient and effective routing of calls made to the 988 crisis hotline to an appropriate crisis hotline center or crisis call center hub; or providing personnel or acute behavioral health, crisis outreach, or crisis stabilization services, as defined in RCW 71.24.025, associated with directly responding to the 988 crisis hotline.

**PART III**

**DEFINITIONS AND MISCELLANEOUS**

**Sec. 301.** RCW 71.24.025 and 2020 c 256 s 201 are each re enacted and amended to read as follows:

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

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(3) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program licensed or certified by the department as meeting standards adopted under this chapter.

(4) "Authority" means the Washington state health care authority.

(5) "Available resources" means funds appropriated for the purpose of providing community behavioral health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other behavioral health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals.

(6) "Behavioral health administrative services organization" means an entity contracted with the authority to administer behavioral health services and programs under RCW 71.24.381, including crisis services and administration of chapter 71.05 RCW, the involuntary treatment act, for all individuals in a defined regional service area.

(7) "Behavioral health aide" means a counselor, health educator, and advocate who helps address individual and community-based behavioral health needs, including those related to alcohol, drug, and tobacco abuse as well as mental health problems such as grief, depression, suicide, and related issues and is certified by a community health aide program of the Indian health service or one or more tribes or tribal organizations consistent with the provisions of 25 U.S.C. Sec. 1616l and RCW 43.71B.010 (7) and (8).

(8) "Behavioral health provider" means a person licensed under chapter 18.57, 18.57A, 18.71, 18.71A, 18.83, 18.205, 18.225, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(9) "Behavioral health services" means mental health services as described in this chapter and chapter 71.36 RCW and substance use disorder treatment services as described in this chapter that, depending on the type of service, are provided by licensed or certified behavioral health agencies, behavioral health providers, or integrated into other health care providers.

(10) "Child" means a person under the age of eighteen years.

(11) "Chronically mentally ill adult" or "adult who is

chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the authority by rule consistent with Public Law 92-603, as amended.

(12) "Clubhouse" means a community-based program that provides rehabilitation services and is licensed or certified by the department.

(13) "Community behavioral health program" means all expenditures, services, activities, or programs, including reasonable administration and overhead, designed and conducted to prevent or treat substance use disorder, mental illness, or both in the community behavioral health system.

(14) "Community behavioral health service delivery system" means public, private, or tribal agencies that provide services specifically to persons with mental disorders, substance use disorders, or both, as defined under RCW 71.05.020 and receive funding from public sources.

(15) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally or behaviorally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by behavioral health administrative services organizations.

(16) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(17) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a behavioral health administrative services organization, or two or more of the county authorities specified in this subsection which have entered into an agreement to establish a behavioral health administrative services organization.

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

(19) "Designated crisis responder" has the same meaning as in RCW 71.05.020.

(20) "Director" means the director of the authority.

(21) "Drug addiction" means a disease characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(22) "Early adopter" means a regional service area for which

all of the county authorities have requested that the authority purchase medical and behavioral health services through a managed care health system as defined under RCW 71.24.380(6).

(23) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in subsection (24) of this section.

(24) "Evidence-based" means a program or practice that has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome. "Evidence-based" also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(25) "Indian health care provider" means a health care program operated by the Indian health service or by a tribe, tribal organization, or urban Indian organization as those terms are defined in the Indian health care improvement act (25 U.S.C. Sec. 1603).

(26) "Intensive behavioral health treatment facility" means a community-based specialized residential treatment facility for individuals with behavioral health conditions, including individuals discharging from or being diverted from state and local hospitals, whose impairment or behaviors do not meet, or no longer meet, criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based placement settings.

(27) "Licensed or certified behavioral health agency" means:

(a) An entity licensed or certified according to this chapter or chapter 71.05 RCW;

(b) An entity deemed to meet state minimum standards as a result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department; or

(c) An entity with a tribal attestation that it meets state minimum standards for a licensed or certified behavioral health agency.

(28) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(29) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

(30) "Managed care organization" means an organization, having a certificate of authority or certificate of registration from the office of the insurance commissioner, that contracts with the authority under a comprehensive risk contract to provide prepaid health care services to enrollees under the authority's managed care programs under chapter 74.09 RCW.

(31) "Mental health peer-run respite center" means a peer-run program to serve individuals in need of voluntary, short-term, noncrisis services that focus on recovery and wellness.

(32) Mental health "treatment records" include registration and

all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department of social and health services or the authority, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, or by treatment facilities. "Treatment records" do not include notes or records maintained for personal use by a person providing treatment services for the entities listed in this subsection, or a treatment facility if the notes or records are not available to others.

(33) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (11), (40), and (41) of this section.

(34) "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(35) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review supports sustained outcomes as described in subsection (24) of this section but does not meet the full criteria for evidence-based.

(36) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service persons who are mentally ill in nursing homes, residential treatment facilities, assisted living facilities, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(37) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(38) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined by a behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven days a week, twenty-four hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated crisis responders, evaluation and treatment facilities, and others as

determined by the behavioral health administrative services organization or managed care organization, as applicable.

(39) "Secretary" means the secretary of the department of health.

(40) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(41) "Severely emotionally disturbed child" or "child who is severely emotionally disturbed" means a child who has been determined by the behavioral health administrative services organization or managed care organization, if applicable, to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a caretaker who is mentally ill or inadequate;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(42) "State minimum standards" means minimum requirements established by rules adopted and necessary to implement this chapter by:

(a) The authority for:

(i) Delivery of mental health and substance use disorder services; and

(ii) Community support services and resource management services;

(b) The department of health for:

(i) Licensed or certified behavioral health agencies for the purpose of providing mental health or substance use disorder programs and services, or both;

(ii) Licensed behavioral health providers for the provision of mental health or substance use disorder services, or both; and

(iii) Residential services.

(43) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an

individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

(44) "Tribe," for the purposes of this section, means a federally recognized Indian tribe.

(45) "Crisis call center hub" means a state-designated center participating in the national suicide prevention lifeline network to respond to statewide or regional 988 calls that meets the requirements of section 102 of this act.

(46) "Crisis stabilization services" means services such as 23-hour crisis stabilization units based on the living room model, crisis stabilization units as provided in RCW 71.05.020, triage facilities as provided in RCW 71.05.020, short-term respite facilities, peer-run respite services, and same-day walk-in behavioral health services, including within the overall crisis system components that operate like hospital emergency departments that accept all walk-ins, and ambulance, fire, and police drop-offs.

(47) "Mobile rapid response crisis team" means a team that provides professional on-site community-based intervention such as outreach, de-escalation, stabilization, resource connection, and follow-up support for individuals who are experiencing a behavioral health crisis, that shall include certified peer counselors as a best practice to the extent practicable based on workforce availability, and that meets standards for response times established by the authority.

(48) "988 crisis hotline" means the universal telephone number within the United States designated for the purpose of the national suicide prevention and mental health crisis hotline system operating through the national suicide prevention lifeline.

**Sec. 302.** RCW 71.24.025 and 2020 c 256 s 201 and 2020 c 80 s 52 are each reenacted and amended to read as follows:

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

(1) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020;

(b) Being gravely disabled as defined in RCW 71.05.020 or, in the case of a child, a gravely disabled minor as defined in RCW 71.34.020; or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

(2) "Alcoholism" means a disease, characterized by a dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(3) "Approved substance use disorder treatment program" means a program for persons with a substance use disorder provided by a treatment program licensed or certified by the department as meeting standards adopted under this chapter.

(4) "Authority" means the Washington state health care authority.

(5) "Available resources" means funds appropriated for the purpose of providing community behavioral health programs, federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other behavioral health services. This does not include funds appropriated for the purpose of operating and administering the

state psychiatric hospitals.

(6) "Behavioral health administrative services organization" means an entity contracted with the authority to administer behavioral health services and programs under RCW 71.24.381, including crisis services and administration of chapter 71.05 RCW, the involuntary treatment act, for all individuals in a defined regional service area.

(7) "Behavioral health aide" means a counselor, health educator, and advocate who helps address individual and community-based behavioral health needs, including those related to alcohol, drug, and tobacco abuse as well as mental health problems such as grief, depression, suicide, and related issues and is certified by a community health aide program of the Indian health service or one or more tribes or tribal organizations consistent with the provisions of 25 U.S.C. Sec. 1616l and RCW 43.71B.010 (7) and (8).

(8) "Behavioral health provider" means a person licensed under chapter 18.57, 18.71, 18.71A, 18.83, 18.205, 18.225, or 18.79 RCW, as it applies to registered nurses and advanced registered nurse practitioners.

(9) "Behavioral health services" means mental health services as described in this chapter and chapter 71.36 RCW and substance use disorder treatment services as described in this chapter that, depending on the type of service, are provided by licensed or certified behavioral health agencies, behavioral health providers, or integrated into other health care providers.

(10) "Child" means a person under the age of eighteen years.

(11) "Chronically mentally ill adult" or "adult who is chronically mentally ill" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the authority by rule consistent with Public Law 92-603, as amended.

(12) "Clubhouse" means a community-based program that provides rehabilitation services and is licensed or certified by the department.

(13) "Community behavioral health program" means all expenditures, services, activities, or programs, including reasonable administration and overhead, designed and conducted to prevent or treat substance use disorder, mental illness, or both in the community behavioral health system.

(14) "Community behavioral health service delivery system" means public, private, or tribal agencies that provide services specifically to persons with mental disorders, substance use disorders, or both, as defined under RCW 71.05.020 and receive funding from public sources.

(15) "Community support services" means services authorized, planned, and coordinated through resource management services including, at a minimum, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for persons who are mentally ill being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for children who are acutely mentally ill or severely emotionally or behaviorally disturbed discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services

under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, recovery services, and other services determined by behavioral health administrative services organizations.

(16) "Consensus-based" means a program or practice that has general support among treatment providers and experts, based on experience or professional literature, and may have anecdotal or case study support, or that is agreed but not possible to perform studies with random assignment and controlled groups.

(17) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a behavioral health administrative services organization, or two or more of the county authorities specified in this subsection which have entered into an agreement to establish a behavioral health administrative services organization.

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

(19) "Designated crisis responder" has the same meaning as in RCW 71.05.020.

(20) "Director" means the director of the authority.

(21) "Drug addiction" means a disease characterized by a dependency on psychoactive chemicals, loss of control over the amount and circumstances of use, symptoms of tolerance, physiological or psychological withdrawal, or both, if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning.

(22) "Early adopter" means a regional service area for which all of the county authorities have requested that the authority purchase medical and behavioral health services through a managed care health system as defined under RCW 71.24.380(6).

(23) "Emerging best practice" or "promising practice" means a program or practice that, based on statistical analyses or a well established theory of change, shows potential for meeting the evidence-based or research-based criteria, which may include the use of a program that is evidence-based for outcomes other than those listed in subsection (24) of this section.

(24) "Evidence-based" means a program or practice that has been tested in heterogeneous or intended populations with multiple randomized, or statistically controlled evaluations, or both; or one large multiple site randomized, or statistically controlled evaluation, or both, where the weight of the evidence from a systemic review demonstrates sustained improvements in at least one outcome. "Evidence-based" also means a program or practice that can be implemented with a set of procedures to allow successful replication in Washington and, when possible, is determined to be cost-beneficial.

(25) "Indian health care provider" means a health care program operated by the Indian health service or by a tribe, tribal organization, or urban Indian organization as those terms are defined in the Indian health care improvement act (25 U.S.C. Sec. 1603).

(26) "Intensive behavioral health treatment facility" means a community-based specialized residential treatment facility for individuals with behavioral health conditions, including individuals discharging from or being diverted from state and local hospitals, whose impairment or behaviors do not meet, or no longer meet, criteria for involuntary inpatient commitment under chapter 71.05 RCW, but whose care needs cannot be met in other community-based placement settings.

(27) "Licensed or certified behavioral health agency" means:

(a) An entity licensed or certified according to this chapter or chapter 71.05 RCW;

(b) An entity deemed to meet state minimum standards as a

result of accreditation by a recognized behavioral health accrediting body recognized and having a current agreement with the department; or

(c) An entity with a tribal attestation that it meets state minimum standards for a licensed or certified behavioral health agency.

(28) "Licensed physician" means a person licensed to practice medicine or osteopathic medicine and surgery in the state of Washington.

(29) "Long-term inpatient care" means inpatient services for persons committed for, or voluntarily receiving intensive treatment for, periods of ninety days or greater under chapter 71.05 RCW. "Long-term inpatient care" as used in this chapter does not include: (a) Services for individuals committed under chapter 71.05 RCW who are receiving services pursuant to a conditional release or a court-ordered less restrictive alternative to detention; or (b) services for individuals voluntarily receiving less restrictive alternative treatment on the grounds of the state hospital.

(30) "Managed care organization" means an organization, having a certificate of authority or certificate of registration from the office of the insurance commissioner, that contracts with the authority under a comprehensive risk contract to provide prepaid health care services to enrollees under the authority's managed care programs under chapter 74.09 RCW.

(31) "Mental health peer-run respite center" means a peer-run program to serve individuals in need of voluntary, short-term, noncrisis services that focus on recovery and wellness.

(32) Mental health "treatment records" include registration and all other records concerning persons who are receiving or who at any time have received services for mental illness, which are maintained by the department of social and health services or the authority, by behavioral health administrative services organizations and their staffs, by managed care organizations and their staffs, or by treatment facilities. "Treatment records" do not include notes or records maintained for personal use by a person providing treatment services for the entities listed in this subsection, or a treatment facility if the notes or records are not available to others.

(33) "Mentally ill persons," "persons who are mentally ill," and "the mentally ill" mean persons and conditions defined in subsections (1), (11), (40), and (41) of this section.

(34) "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(35) "Research-based" means a program or practice that has been tested with a single randomized, or statistically controlled evaluation, or both, demonstrating sustained desirable outcomes; or where the weight of the evidence from a systemic review supports sustained outcomes as described in subsection (24) of this section but does not meet the full criteria for evidence-based.

(36) "Residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for persons who are acutely mentally ill, adults who are chronically mentally ill, children who are severely emotionally disturbed, or adults who are seriously disturbed and determined by the behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include

any residential services developed to service persons who are mentally ill in nursing homes, residential treatment facilities, assisted living facilities, and adult family homes, and may include outpatient services provided as an element in a package of services in a supported housing model. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(37) "Resilience" means the personal and community qualities that enable individuals to rebound from adversity, trauma, tragedy, threats, or other stresses, and to live productive lives.

(38) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for: (a) Adults and children who are acutely mentally ill; (b) adults who are chronically mentally ill; (c) children who are severely emotionally disturbed; or (d) adults who are seriously disturbed and determined by a behavioral health administrative services organization or managed care organization to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding enrollment of adults and children who are mentally ill in services and their individual service plan to designated crisis responders, evaluation and treatment facilities, and others as determined by the behavioral health administrative services organization or managed care organization, as applicable.

(39) "Secretary" means the secretary of the department of health.

(40) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to himself or herself or others, or to the property of others, as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status, or under a less restrictive alternative order, at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in chapter 71.34 RCW, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

(41) "Severely emotionally disturbed child" or "child who is severely emotionally disturbed" means a child who has been determined by the behavioral health administrative services organization or managed care organization, if applicable, to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a caretaker who is mentally ill or inadequate;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(42) "State minimum standards" means minimum requirements established by rules adopted and necessary to implement this chapter by:

(a) The authority for:

(i) Delivery of mental health and substance use disorder services; and

(ii) Community support services and resource management services;

(b) The department of health for:

(i) Licensed or certified behavioral health agencies for the purpose of providing mental health or substance use disorder programs and services, or both;

(ii) Licensed behavioral health providers for the provision of mental health or substance use disorder services, or both; and

(iii) Residential services.

(43) "Substance use disorder" means a cluster of cognitive, behavioral, and physiological symptoms indicating that an individual continues using the substance despite significant substance-related problems. The diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to the use of the substances.

(44) "Tribe," for the purposes of this section, means a federally recognized Indian tribe.

(45) "Crisis call center hub" means a state-designated center participating in the national suicide prevention lifeline network to respond to statewide or regional 988 calls that meets the requirements of section 102 of this act.

(46) "Crisis stabilization services" means services such as 23-hour crisis stabilization units based on the living room model, crisis stabilization units as provided in RCW 71.05.020, triage facilities as provided in RCW 71.05.020, short-term respite facilities, peer-run respite services, and same-day walk-in behavioral health services, including within the overall crisis system components that operate like hospital emergency departments that accept all walk-ins, and ambulance, fire, and police drop-offs.

(47) "Mobile rapid response crisis team" means a team that provides professional on-site community-based intervention such as outreach, de-escalation, stabilization, resource connection, and follow-up support for individuals who are experiencing a behavioral health crisis, that shall include certified peer counselors as a best practice to the extent practicable based on workforce availability, and that meets standards for response times established by the authority.

(48) "988 crisis hotline" means the universal telephone number within the United States designated for the purpose of the national suicide prevention and mental health crisis hotline system operating through the national suicide prevention lifeline.

**Sec. 303.** RCW 71.24.649 and 2019 c 324 s 5 are each amended to read as follows:

The secretary shall license or certify mental health peer-run respite centers that meet state minimum standards. In consultation with the authority and the department of social and health services, the secretary must:



(1) Establish requirements for licensed and certified community behavioral health agencies to provide mental health peer-run respite center services and establish physical plant and service requirements to provide voluntary, short-term, noncrisis services that focus on recovery and wellness;

(2) Require licensed and certified agencies to partner with the local crisis system including, but not limited to, evaluation and treatment facilities and designated crisis responders;

(3) Establish staffing requirements, including rules to ensure that facilities are peer-run;

(4) Limit services to a maximum of seven days in a month;

(5) Limit services to individuals who are experiencing psychiatric distress, but do not meet legal criteria for involuntary hospitalization under chapter 71.05 RCW; and

(6) Limit services to persons at least eighteen years of age.

NEW SECTION. Sec. 304. Sections 201 through 206 of this act constitute a new chapter in Title 82 RCW.

NEW SECTION. Sec. 305. Sections 201 through 205 of this act take effect October 1, 2021.

NEW SECTION. Sec. 306. Section 301 of this act expires July 1, 2022.

NEW SECTION. Sec. 307. Section 302 of this act takes effect July 1, 2022.

NEW SECTION. Sec. 308. Section 103 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. Sec. 309. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2021, in the omnibus appropriations act, this act is null and void."

On page 1, line 4 of the title, after "services;" strike the remainder of the title and insert "amending RCW 71.24.649; reenacting and amending RCW 71.24.025 and 71.24.025; adding new sections to chapter 71.24 RCW; adding a new section to chapter 48.43 RCW; adding a new section to chapter 43.06 RCW; adding a new chapter to Title 82 RCW; creating new sections; prescribing penalties; providing effective dates; providing expiration dates; and declaring an emergency."

MOTION

Senator Wilson, L. moved that the following floor amendment no. 875 by Senator Wilson, L. be adopted:

On page 4, beginning on line 16, after "Employ" strike all material through "appropriate," on line 17 and insert "staff"

On page 18, line 21, after "is" strike "30" and insert "9"

On page 18, line 22, after "is" strike "50" and insert "15"

On page 19, line 8, after "is" strike "30" and insert "9"

On page 19, line 10, after "is" strike "50" and insert "15"

On page 19, line 23, after "is" strike "30" and insert "9"

On page 19, line 24, after "is" strike "50" and insert "15"

On page 22, line 12, after "personnel" strike all material through "by" on line 14

On page 22, after line 27, insert the following:

**NEW SECTION. Sec. 207. FOR THE STATE HEALTH CARE AUTHORITY—COMMUNITY BEHAVIORAL HEALTH PROGRAM**

General Fund—State Appropriation (FY 2022) .... \$8,374,000

General Fund—State Appropriation (FY 2023) .. \$20,445,000

General Fund—Federal Appropriation ..... \$9,606,000

The appropriations in this section are subject to the following conditions and limitations: \$8,374,000 of the general fund—state

appropriation for fiscal year 2022, \$20,445,000 of the general fund—state appropriation for fiscal year 2023, and \$9,606,000 of the general fund—federal appropriation (medicaid) are provided solely for increasing local behavioral health mobile crisis response team capacity and ensuring each region has at least one adult and one children and youth mobile crisis team that is able to respond to calls coming into the 988 crisis hotline."

Senators Wilson, L. and Wagoner spoke in favor of adoption of the amendment to the striking amendment.

Senators Dhingra and Rivers 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. 875 by Senator Wilson, L. on page 4, line 16 to striking floor amendment no. 830.

The motion by Senator Wilson, L. did not carry and floor amendment no. 875 was not adopted by voice vote.

MOTION

Senator Wagoner moved that the following floor amendment no. 833 by Senator Wagoner be adopted:

On page 4, line 16, after "staff" strike "with" and insert "who have"

On page 4, line 17, after "education" insert "in a behavioral health or counseling-related field"

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

Senator Dhingra 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. 833 by Senator Wagoner on page 4, line 16 to striking floor amendment no. 830.

The motion by Senator Wagoner did not carry and floor amendment no. 833 was not adopted by voice vote.

MOTION

Senator Wagoner moved that the following floor amendment no. 840 by Senator Wagoner be adopted:

On page 4, line 16, after "staff" strike all material through "appropriate" on line 17

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

WITHDRAWAL OF AMENDMENT

On motion of Senator Wagoner and without objection, floor amendment no. 840 by Senator Wagoner on page 4, line 16 to striking floor amendment no. 830 was withdrawn.

MOTION

Senator Braun moved that the following floor amendment no. 865 by Senator Braun be adopted:

On page 4, line 17, after "education" insert "or an approved apprenticeship program"

Senators Braun, Short, Rivers, Muzzall and Padden spoke in

favor of adoption of the amendment to the striking amendment.

Senators Dhingra and Keiser spoke against adoption of the amendment to the striking amendment.

#### MOTION

Senator Padden 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 Braun on page 4, line 17 to striking floor amendment no. 830.

#### ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Braun and the amendment was adopted by the following vote: Yeas, 25; Nays, 24; Absent, 0; Excused, 0.

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

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

#### MOTION

Senator Dhingra moved that the following floor amendment no. 906 by Senator Dhingra be adopted:

On page 5, line 7, after "systems," strike "emergency departments,"

On page 5, line 25, after "services" insert ", including:

(i) Real-time bed availability for all behavioral health bed types, including but not limited to crisis stabilization services, triage facilities, psychiatric inpatient, substance use disorder inpatient, withdrawal management, peer-run respite centers, and crisis respite services, inclusive of both voluntary and involuntary beds, for use by crisis response workers, first responders, health care providers, emergency departments, and individuals in crisis; and

(ii) Real-time information relevant to the coordination of behavioral health crisis response services for a person, including the means to access:

(A) Information about any less restrictive alternative treatment orders or mental health advance directives related to the person; and

(B) Information necessary to enable the crisis call center hub to actively collaborate with emergency departments, primary care providers and behavioral health providers within managed care organizations, behavioral health administrative services organizations, and other health care payers to establish a safety plan for the person and provide the next steps for the person's transition to follow-up noncrisis care. To establish information-sharing guidelines that fulfill the intent of this section the authority shall consider input from the confidential information compliance and coordination subcommittee established under section 103 of this act"

On page 6, beginning on line 9, strike all of subsections (d) through (f)

Reletter the remaining subsections consecutively and correct

any internal references accordingly.

Beginning on page 11, line 29, strike all of subsection (d) and insert the following:

"(d) The necessary components of each of the new technologically advanced behavioral health crisis call center system platform and the new behavioral health integrated client referral system, as provided under section 102 of this act, for assigning and tracking response to behavioral health crisis calls and providing real-time bed and outpatient appointment availability to 988 operators, emergency departments, designated crisis responders, and other behavioral health crisis responders, which shall include but not be limited to:

(i) Identification of the components crisis call center hub staff need to effectively coordinate crisis response services and find available beds and available primary care and behavioral health outpatient appointments;

(ii) Evaluation of existing bed tracking models currently utilized by other states and identifying the model most suitable to Washington's crisis behavioral health system;

(iii) Evaluation of whether bed tracking will improve access to all behavioral health bed types and other impacts and benefits; and

(iv) Exploration of how the bed tracking and outpatient appointment availability platform can facilitate more timely access to care and other impacts and benefits;

(e) The necessary systems and capabilities that licensed or certified behavioral health agencies, behavioral health providers, and any other relevant parties will require to report, maintain, and update inpatient and residential bed and outpatient service availability in real time to correspond with the crisis call center system platform or behavioral health integrated client referral system identified in section 102 of this act, as appropriate;"

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

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

The President declared the question before the Senate to be the adoption of floor amendment no. 906 by Senator Dhingra on page 5, line 7 to striking floor amendment no. 830.

The motion by Senator Dhingra carried and floor amendment no. 906 was adopted by voice vote.

#### MOTION

Senator Rolfes moved that the following floor amendment no. 897 by Senator Rolfes be adopted:

On page 17, after line 33, insert the following:

"**NEW SECTION. Sec. 108.** A new section is added to chapter 71.24 RCW to read as follows:

(1) When acting in their statutory capacities pursuant to this act, the state, department, authority, state enhanced 911 coordination office, emergency management division, military department, any other state agency, and their officers, employees, and agents are deemed to be carrying out duties owed to the public in general and not to any individual person or class of persons separate and apart from the public. Nothing contained in this act may be construed to evidence a legislative intent that the duties to be performed by the state, department, authority, state enhanced 911 coordination office, emergency management division, military department, any other state agency, and their officers, employees, and agents, as required by this act, are owed to any individual person or class of persons separate and apart from the public in general.

(2) Each crisis call center hub designated by the department under any contract or agreement pursuant to this act shall be deemed to be an independent contractor, separate and apart from the department and the state."

Senators Rolfes and Wilson, L. spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 897 by Senator Rolfes on page 17, line 33 to striking floor amendment no. 830.

The motion by Senator Rolfes carried and floor amendment no. 897 was adopted by voice vote.

MOTION

Senator Dhingra moved that the following floor amendment no. 908 by Senator Dhingra be adopted:

On page 17, after line 33, insert the following:

**"NEW SECTION. Sec. 108.** A new section is added to chapter 71.24 RCW to read as follows:

For the purpose of development and implementation of technology and platforms by the department and the authority under section 102 of this act, the department and the authority shall create a sophisticated technical and operational plan. The plan shall not conflict with, nor delay, the department meeting and satisfying existing 988 federal requirements that are already underway and must be met by July 16, 2022, nor is it intended to delay the initial planning phase of the project, or the planning and deliverables tied to any grant award received and allotted by the department or the authority prior to April 1, 2021. To the extent that funds are appropriated for this specific purpose, the department and the authority must contract for a consultant to critically analyze the development and implementation technology and platforms and operational challenges to best position the solutions for success. Prior to initiation of a new information technology development, which does not include the initial planning phase of this project or any contracting needed to complete the initial planning phase, the department and authority shall submit the technical and operational plan to the governor, office of financial management, steering committee of the crisis response improvement strategy committee created under section 103 of this act, and appropriate policy and fiscal committees of the legislature, which shall include the committees referenced in this section. The plan must be approved by the office of the chief information officer, the director of the office of financial management, and the steering committee of the crisis response improvement strategy committee, which shall consider any feedback received from the senate ways and means committee chair, the house of representatives appropriations committee chair, the senate environment, energy and technology committee chair, the senate behavioral health subcommittee chair, and the house of representatives health care and wellness committee chair, before any funds are expended for the solutions, other than those funds needed to complete the initial planning phase. A draft technical and operational plan must be submitted no later than January 1, 2022, and a final plan by August 31, 2022.

The plan submitted must include, but not be limited to:

- (1) Data management;
- (2) Data security;
- (3) Data flow;
- (4) Data access and permissions;
- (5) Protocols to ensure staff are following proper health information privacy procedures;

- (6) Cybersecurity requirements and how to meet these;
- (7) Service level agreements by vendor;
- (8) Maintenance and operations costs;
- (9) Identification of what existing software as a service products might be applicable, to include the:
  - (a) Vendor name;
  - (b) Vendor offerings to include product module and functionality detail and whether each represent add-ons that must be paid separately;
  - (c) Vendor pricing structure by year through implementation; and
  - (d) Vendor pricing structure by year post implementation;
- (10) Integration limitations by system;
- (11) Data analytic and performance metrics to be required by system;
- (12) Liability;
- (13) Which agency will host the electronic health record software as a service;
- (14) Regulatory agency;
- (15) The timeline by fiscal year from initiation to implementation for each solution in this act;
- (16) How to plan in a manner that ensures efficient use of state resources and maximizes federal financial participation; and
- (17) A complete comprehensive business plan analysis.

**NEW SECTION. Sec. 109.** The sum of \$500,000, or as much thereof as may be necessary, is appropriated for the fiscal biennium ending June 30, 2023, from the general fund to the state health care authority medical assistance program for the purposes of contracting with a consultant to critically analyze the development and implementation technology and platforms and operational challenges to best position the technology solutions for success as described in section 108 of this act. A draft technical and operational plan compiled by the consultant must be submitted no later than January 1, 2022, and a final plan by August 31, 2022."

On page 41, line 6, after "penalties;" insert "making an appropriation;"

Senators Dhingra and Wilson, L. spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of floor amendment no. 908 by Senator Dhingra on page 17, line 33 to striking floor amendment no. 830.

The motion by Senator Dhingra carried and floor amendment no. 908 was adopted by voice vote.

MOTION

Senator Mullet moved that the following floor amendment no. 893 by Senator Mullet be adopted:

- On page 18, line 21, after "is" strike "30" and insert "24"
- On page 18, line 22, after "is" strike "50" and insert "40"
- On page 19, line 8, after "is" strike "30" and insert "24"
- On page 19, line 10, after "is" strike "50" and insert "40"
- On page 19, line 23, after "is" strike "30" and insert "24"
- On page 19, line 24, after "is" strike "50" and insert "40"

Senators Mullet, Wilson, L., Rivers, Schoesler and Muzzall spoke in favor of adoption of the amendment to the striking amendment.

Senators Dhingra and Liias 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. 893 by Senator Mullet on page 18, line 21 to striking floor amendment no. 830.

The motion by Senator Mullet carried and floor amendment no. 893 was adopted by voice vote.

The President declared the question before the Senate to be the adoption of striking floor amendment no. 830 by Senator Dhingra as amended to Engrossed Second Substitute House Bill No. 1477.

The motion by Senator Dhingra carried and striking floor amendment no. 830 as amended was adopted by voice vote.

#### MOTION

On motion of Senator Dhingra, the rules were suspended, Engrossed Second Substitute House Bill No. 1477, as amended by the Senate, 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 Wagoner spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 1477 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1477, as amended by the Senate, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 22; Absent, 0; Excused, 0.

Voting yea: Senators Billig, Carlyle, Cleveland, Conway, Darneille, Das, Dhingra, Frockt, 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, Ericksen, Fortunato, Gildon, Hasegawa, Hawkins, Holy, Honeyford, King, McCune, Muzzall, Padden, Rivers, Schoesler, Sheldon, Short, Wagoner, Warnick, Wilson, J. and Wilson, L.

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1477, as amended by the Senate, 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.

#### MESSAGE FROM THE HOUSE

April 8, 2021

MR. PRESIDENT:

The House passed ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5160 with the following amendment(s): 5160-S2.E AMH ENGR H1400.E

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature finds that the COVID-19 pandemic is causing a sustained global economic slowdown, and an economic downturn throughout Washington state with unprecedented numbers of layoffs and reduced work

hours for a significant percentage of our workforce. Many of the state's workforce has been impacted by these layoffs and substantially reduced work hours and have suffered economic hardship, disproportionately affecting low and moderate-income workers resulting in lost wages and the inability to pay for basic household expenses, including rent. Hundreds of thousands of tenants in Washington are unable to consistently pay their rent, reflecting the continued financial precariousness of many renters in the state. Before the COVID-19 pandemic, nonpayment of rent was the leading cause of evictions within the state. Because the COVID-19 pandemic has led to an inability for tenants to consistently pay rent, the likelihood of evictions has increased, as well as life, health, and safety risks to a significant percentage of the state's tenants. As a result, the governor has issued a temporary moratorium on evictions as of March 2020, with multiple extensions and other related actions, to reduce housing instability and enable tenants to stay in their homes.

Therefore, it is the intent of the legislature with this act to increase tenant protections during the public health emergency, provide legal representation for qualifying tenants in eviction cases, establish an eviction resolution pilot program to address nonpayment of rent eviction cases before any court filing, and ensure tenants and landlords have adequate opportunities to access state and local rental assistance programs to reimburse landlords for unpaid rent and preserve tenancies.

**NEW SECTION. Sec. 2.** A new section is added to chapter 59.18 RCW to read as follows:

The definitions in this section apply to sections 3 and 4 of this act unless the context clearly requires otherwise.

(1) "Dwelling unit" has the same meaning as defined in RCW 59.18.030, and includes a manufactured/mobile home or a mobile home lot as defined in RCW 59.20.030.

(2) "Eviction moratorium" refers to the governor of the state of Washington's proclamation 20-19.6, proclaiming a moratorium on certain evictions for all counties throughout Washington state on March 18, 2021.

(3) "Landlord" has the same meaning as defined in RCW 59.18.030 and 59.20.030.

(4) "Prospective landlord" has the same meaning as defined in RCW 59.18.030.

(5) "Public health emergency" refers to the governor of the state of Washington's proclamation 20-05, proclaiming a state of emergency for all counties throughout Washington state on February 29, 2020, and any subsequent orders extending or amending such proclamation due to COVID-19 until the proclamation expires or is terminated by the governor of the state of Washington.

(6) "Rent" has the same meaning as defined in RCW 59.18.030.

(7) "Tenant" refers to any individual renting a dwelling unit or lot primarily for living purposes, including any individual with a tenancy subject to this chapter or chapter 59.20 RCW or any individual residing in transient lodging, such as a hotel or motel or camping area as their primary dwelling, for 30 days or more prior to March 1, 2020. "Tenant" does not include any individual residing in a hotel or motel or camping area as their primary dwelling for more than 30 days after March 1, 2020, if the hotel or motel or camping area has provided the individual with a seven-day eviction notice, which must include the following language: "For no-cost legal assistance, please call 2-1-1 or the Northwest Justice Project CLEAR Hotline outside King County (888) 201-1014 weekdays between 9:15 a.m. – 12:15 p.m., or (888) 387-7111 for seniors (age 60 and over). You may find additional resource information at <http://www.washingtonlawhelp.org>." "Tenant" also does not include occupants of homeless mitigation sites or a person

entering onto land without permission of the landowner or lessor. For purposes of this subsection, any local government provision of solid waste or hygiene services to unsanctioned encampments does not constitute permission to occupy land.

**TENANT PROTECTIONS**

**NEW SECTION. Sec. 3.** A new section is added to chapter 59.18 RCW to read as follows:

(1) A landlord may not charge or impose any late fees or other charges against any tenant for the nonpayment of rent that became due between March 1, 2020, and six months following the expiration of the eviction moratorium.

(2) For rent that accrued between March 1, 2020, and the six months following the expiration of the eviction moratorium expiration date:

(a) A landlord may not report to a prospective landlord:

(i) A tenant's nonpayment of rent that accrued between March 1, 2020, and the six months following the expiration of the eviction moratorium; or

(ii) An unlawful detainer action pursuant to RCW 59.12.030(3) that resulted from a tenant's nonpayment of rent between March 1, 2020, and the six months following the expiration of the eviction moratorium.

(b) A prospective landlord may not take an adverse action based on a prospective tenant's nonpayment of rent that occurred between March 1, 2020, and the six months following the expiration of the eviction moratorium.

(3)(a) A landlord or prospective landlord may not deny, discourage application for, or otherwise make unavailable any rental dwelling unit based on a tenant's or prospective tenant's medical history including, but not limited to, the tenant's or prospective tenant's prior or current exposure or infection to the COVID-19 virus.

(b) A landlord or prospective landlord may not inquire about, consider, or require disclosure of a tenant's or prospective tenant's medical records or history, unless such disclosure is necessary to evaluate a reasonable accommodation request or reasonable modification request under RCW 49.60.222.

(4) A landlord or prospective landlord in violation of this section is liable in a civil action for up to two and one-half times the monthly rent of the real property at issue, as well as court costs and reasonable attorneys' fees. A court must impose this penalty in an amount necessary to deter future violations, payable to the tenant bringing the action.

**REPAYMENT PLANS**

**NEW SECTION. Sec. 4.** A new section is added to chapter 59.18 RCW to read as follows:

(1) The eviction moratorium instituted by the governor of the state of Washington's proclamation 20-19.6 shall end on June 30, 2021.

(2) If a tenant has remaining unpaid rent that accrued between March 1, 2020, and six months following the expiration of the eviction moratorium or the end of the public health emergency, whichever is greater, the landlord must offer the tenant a reasonable schedule for repayment of the unpaid rent that does not exceed monthly payments equal to one-third of the monthly rental charges during the period of accrued debt. If a tenant fails to accept the terms of a reasonable repayment plan within 14 days of the landlord's offer, the landlord may proceed with an unlawful detainer action as set forth in RCW 59.12.030(3) but subject to any requirements under the eviction resolution pilot program established under section 7 of this act. If the tenant defaults on any rent owed under a repayment plan, the landlord may apply for reimbursement from the landlord mitigation program as authorized under RCW 43.31.605(1)(d) or proceed with an

unlawful detainer action as set forth in RCW 59.12.030(3) but subject to any requirements under the eviction resolution pilot program established under section 7 of this act. The court must consider the tenant's circumstances, including decreased income or increased expenses due to COVID-19, and the repayment plan terms offered during any unlawful detainer proceeding.

(3) Any repayment plan entered into under this section must:

(a) Not require payment until 30 days after the repayment plan is offered to the tenant;

(b) Cover rent only and not any late fees, attorneys' fees, or any other fees and charges;

(c) Allow for payments from any source of income as defined in RCW 59.18.255(5) or from pledges by nonprofit organizations, churches, religious institutions, or governmental entities; and

(d) Not include provisions or be conditioned on: The tenant's compliance with the rental agreement, payment of attorneys' fees, court costs, or other costs related to litigation if the tenant defaults on the rental agreement; a requirement that the tenant apply for governmental benefits or provide proof of receipt of governmental benefits; or the tenant's waiver of any rights to a notice under RCW 59.12.030 or related provisions before a writ of restitution is issued.

(4) It is a defense to an eviction under RCW 59.12.030(3) that a landlord did not offer a repayment plan in conformity with this section.

(5) To the extent available funds exist for rental assistance from a federal, state, local, private, or nonprofit program, the tenant or landlord may continue to seek rental assistance to reduce and/or eliminate the unpaid rent balance.

**Sec. 5.** RCW 43.31.605 and 2020 c 315 s 8 and 2020 c 169 s 2 are each reenacted and amended to read as follows:

(1)(a) Subject to the availability of funds for this purpose, the landlord mitigation program is created and administered by the department. The department shall have such rule-making authority as the department deems necessary to administer the program.

(b) The following types of claims related to landlord mitigation for renting private market rental units to low-income tenants using a housing subsidy program are eligible for reimbursement from the landlord mitigation program account:

(i) Up to one thousand dollars for improvements identified in RCW 59.18.255(1)(a). In order to be eligible for reimbursement under this subsection (1)(b)(i), the landlord must pay for the first five hundred dollars for improvements, and rent to the tenant whose housing subsidy program was conditioned on the real property passing inspection. Reimbursement under this subsection (1)(b)(i) may also include up to fourteen days of lost rental income from the date of offer of housing to the applicant whose housing subsidy program was conditioned on the real property passing inspection until move in by that applicant;

(ii) Reimbursement for damages as reflected in a judgment obtained against the tenant through either an unlawful detainer proceeding, or through a civil action in a court of competent jurisdiction after a hearing;

(iii) Reimbursement for damages established pursuant to subsection (2) of this section; and

(iv) Reimbursement for unpaid rent and unpaid utilities, provided that the landlord can evidence it to the department's satisfaction.

(c) Claims related to landlord mitigation for an unpaid judgment for rent, unpaid judgments resulting from the tenant's failure to comply with an installment payment agreement identified in RCW 59.18.610, late fees, attorneys' fees, and costs after a court order pursuant to RCW 59.18.410(3), including any

unpaid portion of the judgment after the tenant defaults on the payment plan pursuant to RCW 59.18.410(3)(c), are eligible for reimbursement from the landlord mitigation program account and are exempt from any postjudgment interest required under RCW 4.56.110. Any claim for reimbursement made pursuant to RCW 59.18.410(3)(e)(ii) must be accompanied by a court order staying the writ of restitution pursuant to RCW 59.18.410(3). Any claim for reimbursement under this subsection (1)(c) is not an entitlement.

(i) The department shall provide for a form on its website for tenants and landlords to apply for reimbursement funds for the landlord pursuant to this subsection (1)(c).

(ii) The form must include: (A) Space for the landlord and tenant to provide names, mailing addresses, phone numbers, date of birth for the tenant, and any other identifying information necessary for the department to process payment; (B) the landlord's statewide vendor identification number and how to obtain one; (C) name and address to whom payment must be made; (D) the amount of the judgment with instructions to include any other supporting documentation the department may need to process payment; (E) instructions for how the tenant is to reimburse the department under (c)(iii) of this subsection; (F) a description of the consequences if the tenant does not reimburse the department as provided in this subsection (1)(c); (G) a signature line for the landlord and tenant to confirm that they have read and understood the contents of the form and program; and (H) any other information necessary for the operation of the program. If the tenant has not signed the form after the landlord has made good faith efforts to obtain the tenant's signature, the landlord may solely submit the form but must attest to the amount of money owed and sign the form under penalty of perjury.

(iii) When a landlord has been reimbursed pursuant to this subsection (1)(c), the tenant for whom payment was made shall reimburse the department by depositing the amount disbursed from the landlord mitigation program account into the court registry of the superior court in which the judgment was entered. The tenant or other interested party may seek an ex parte order of the court under the unlawful detainer action to order such funds to be disbursed by the court. Upon entry of the order, the court clerk shall disburse the funds and include a case number with any payment issued to the department. If directed by the court, a clerk shall issue any payments made by a tenant to the department without further court order.

(iv) The department may deny an application made by a tenant who has failed to reimburse the department for prior payments issued pursuant to this subsection (1)(c).

(v) With any disbursement from the account to the landlord, the department shall notify the tenant at the address provided within the application that a disbursement has been made to the landlord on the tenant's behalf and that failure to reimburse the account for the payment through the court registry may result in a denial of a future application to the account pursuant to this subsection (1)(c). The department may include any other additional information about how to reimburse the account it deems necessary to fully inform the tenant.

(vi) The department's duties with respect to obtaining reimbursement from the tenant to the account are limited to those specified within this subsection (1)(c).

(vii) If at any time funds do not exist in the landlord mitigation program account to reimburse claims submitted under this subsection (1)(c), the department must create and maintain a waitlist and distribute funds in the order the claims are received pursuant to subsection (6) of this section. Payment of any claims on the waitlist shall be made only from the landlord mitigation program account. The department shall not be civilly or

criminally liable and may not have any penalty or cause of action of any nature arise against it regarding the provision or lack of provision of funds for reimbursement.

(d)(i) Claims related to landlord mitigation for:

(A) Up to \$15,000 in unpaid rent that accrued between March 1, 2020, and six months following the expiration of the eviction moratorium and the tenant being low-income, limited resourced or experiencing hardship, voluntarily vacated or abandoned the tenancy; or

(B) Up to \$15,000 in remaining unpaid rent if a tenant defaults on a repayment plan entered into under section 4 of this act are eligible for reimbursement from the landlord mitigation program account subject to the program requirements under this section, provided the tenancy has not been terminated at the time of reimbursement.

(ii) A landlord is ineligible for reimbursement under this subsection (1)(d) where the tenant vacated the tenancy because of an unlawful detainer action under RCW 59.12.030(3).

(iii) A landlord in receipt of reimbursement from the program pursuant to this subsection (1)(d) is prohibited from:

(A) Taking legal action against the tenant for damages or any remaining unpaid rent accrued between March 1, 2020, and six months following the expiration of the eviction moratorium attributable to the same tenancy; or

(B) Pursuing collection, or authorizing another entity to pursue collection on the landlord's behalf, of a judgment against the tenant for damages or any remaining unpaid rent accrued between March 1, 2020, and six months following the expiration of the eviction moratorium attributable to the same tenancy.

(2) In order for a claim under subsection (1)(b)(iii) of this section to be eligible for reimbursement from the landlord mitigation program account, a landlord must:

(a) Have ensured that the rental property was inspected at the commencement of the tenancy by both the tenant and the landlord or landlord's agent and that a detailed written move-in property inspection report, as required in RCW 59.18.260, was prepared and signed by both the tenant and the landlord or landlord's agent;

(b) Make repairs and then apply for reimbursement to the department;

(c) Submit a claim on a form to be determined by the department, signed under penalty of perjury; and

(d) Submit to the department copies of the move-in property inspection report specified in (a) of this subsection and supporting materials including, but not limited to, before repair and after repair photographs, videos, copies of repair receipts for labor and materials, and such other documentation or information as the department may request.

(3) The department shall make reasonable efforts to review a claim within ten business days from the date it received properly submitted and complete claims to the satisfaction of the department. In reviewing a claim pursuant to subsection (1)(b) of this section, and determining eligibility for reimbursement, the department must receive documentation, acceptable to the department in its sole discretion, that the claim involves a private market rental unit rented to a low-income tenant who is using a housing subsidy program.

(4) Claims pursuant to subsection (1)(b) of this section related to a tenancy must total at least five hundred dollars in order for a claim to be eligible for reimbursement from the program. While claims or damages may exceed five thousand dollars, total reimbursement from the program may not exceed five thousand dollars per tenancy.

(5) Damages, beyond wear and tear, that are eligible for reimbursement include, but are not limited to: Interior wall gouges and holes; damage to doors and cabinets, including

hardware; carpet stains or burns; cracked tiles or hard surfaces; broken windows; damage to household fixtures such as disposal, toilet, sink, sink handle, ceiling fan, and lighting. Other property damages beyond normal wear and tear may also be eligible for reimbursement at the department's discretion.

(6) All reimbursements for eligible claims shall be made on a first-come, first-served basis, to the extent of available funds. The department shall use best efforts to notify the tenant of the amount and the reasons for any reimbursements made.

(7) The department, in its sole discretion, may inspect the property and the landlord's records related to a claim, including the use of a third-party inspector as needed to investigate fraud, to assist in making its claim review and determination of eligibility.

(8) A landlord in receipt of reimbursement from the program pursuant to subsection (1)(b) of this section is prohibited from:

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

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

(9) A landlord denied reimbursement under subsection (1)(b)(iii) of this section may seek to obtain a judgment from a court of competent jurisdiction and, if successful, may resubmit a claim for damages supported by the judgment, along with a certified copy of the judgment. The department may reimburse the landlord for that portion of such judgment that is based on damages reimbursable under the landlord mitigation program, subject to the limitations set forth in this section.

(10) Determinations regarding reimbursements shall be made by the department in its sole discretion.

(11) The department must establish a website that advertises the landlord mitigation program, the availability of reimbursement from the landlord mitigation program account, and maintains or links to the agency rules and policies established pursuant to this section.

(12) Neither the state, the department, or persons acting on behalf of the department, while acting within the scope of their employment or agency, is liable to any person for any loss, damage, harm, or other consequence resulting directly or indirectly from the department's administration of the landlord mitigation program or determinations under this section.

(13)(a) A report to the appropriate committees of the legislature on the effectiveness of the program and recommended modifications shall be submitted to the governor and the appropriate committees of the legislature by January 1, 2021. In preparing the report, the department shall convene and solicit input from a group of stakeholders to include representatives of large multifamily housing property owners or managers, small rental housing owners in both rural and urban markets, a representative of tenant advocates, and a representative of the housing authorities.

(b) The report shall include discussion of the effectiveness of the program as well as the department's recommendations to improve the program, and shall include the following:

(i) The number of total claims and total amount reimbursed to landlords by the fund;

(ii) Any indices of fraud identified by the department;

(iii) Any reports by the department regarding inspections authorized by and conducted on behalf of the department;

(iv) An outline of the process to obtain reimbursement for improvements and for damages from the fund;

(v) An outline of the process to obtain reimbursement for lost rent due to the rental inspection and tenant screening process,

together with the total amount reimbursed for such damages;

(vi) An evaluation of the feasibility for expanding the use of the mitigation fund to provide up to ninety-day no interest loans to landlords who have not received timely rental payments from a housing authority that is administering section 8 rental assistance;

(vii) Any other modifications and recommendations made by stakeholders to improve the effectiveness and applicability of the program.

(14) As used in this section:

(a) "Housing subsidy program" means a housing voucher as established under 42 U.S.C. Sec. 1437 as of January 1, 2018, or other housing subsidy program including, but not limited to, valid short-term or long-term federal, state, or local government, private nonprofit, or other assistance program in which the tenant's rent is paid either partially by the program and partially by the tenant, or completely by the program directly to the landlord;

(b) "Low-income" means income that does not exceed eighty percent of the median income for the standard metropolitan statistical area in which the private market rental unit is located; and

(c) "Private market rental unit" means any unit available for rent that is owned by an individual, corporation, limited liability company, nonprofit housing provider, or other entity structure, but does not include housing acquired, or constructed by a public housing agency under 42 U.S.C. Sec. 1437 as it existed on January 1, 2018.

**Sec. 6.** RCW 43.31.615 and 2019 c 356 s 13 are each amended to read as follows:

(1) The landlord mitigation program account is created in the custody of the state treasury. All transfers and appropriations by the legislature, repayments, private contributions, and all other sources must be deposited into the account. Expenditures from the account may only be used for the landlord mitigation program under this chapter to reimburse landlords for eligible claims related to private market rental units during the time of their rental to low-income tenants using housing subsidy programs as defined in RCW 43.31.605, for any unpaid judgment issued within an unlawful detainer action after a court order pursuant to RCW 59.18.410(3) as described in RCW 43.31.605(1)(c), for any unpaid rent as described in RCW 43.31.605(1)(d), and for the administrative costs identified in subsection (2) of this section. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) Administrative costs associated with application, distribution, and other program activities of the department may not exceed twenty percent of the annual funds available for the landlord mitigation program. Reappropriations must not be included in the calculation of the annual funds available for determining the administrative costs.

(3) Funds deposited into the landlord mitigation program account shall be prioritized by the department for allowable costs under RCW 43.31.605(1)(b), and may only be used for other allowable costs when funding available in the account exceeds the amount needed to pay claims under RCW 43.31.605(1)(b).

#### **EVICTION RESOLUTION PILOT PROGRAM**

**NEW SECTION. Sec. 7.** A new section is added to chapter 59.18 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the administrative office of the courts shall contract with dispute resolution centers as described under

chapter 7.75 RCW within or serving each county to establish a court-based eviction resolution pilot program operated in accordance with Washington supreme court order no. 25700-B-639 and any standing judicial order of the individual superior court.

(2) The eviction resolution pilot program must be used to facilitate the resolution of nonpayment of rent cases between a landlord and tenant before the landlord files an unlawful detainer action.

(3) Prior to filing an unlawful detainer action for nonpayment of rent, the landlord must provide a notice as required under RCW 59.12.030(3) and an additional notice to the tenant informing them of the eviction resolution pilot program. The landlord must retain proof of service or mailing of the additional notice. The additional notice to the tenant must provide at least the following information regarding the eviction resolution pilot program:

(a) Contact information for the local dispute resolution center;

(b) Contact information for the county's housing justice project or, if none, a statewide organization providing housing advocacy services for low-income residents;

(c) The following statement: "The Washington state office of the attorney general has this notice in multiple languages on its website. You will also find information there on how to find a lawyer or advocate at low or no cost and any available resources to help you pay your rent. Alternatively, you may find additional information to help you at <http://www.washingtonlawhelp.org>";

(d) The name and contact information of the landlord, the landlord's attorney, if any, and the tenant; and

(e) The following statement: "Failure to respond to this notice within 14 days may result in the filing of a summons and complaint for an unlawful detainer action with the court."

(4) At the time of service or mailing of the pay or vacate notice and additional notice to the tenant, a landlord must also send copies of these notices to the local dispute resolution center serving the area where the property is located.

(5) A landlord must secure a certification of participation with the eviction resolution program by the appropriate dispute resolution center before an unlawful detainer action for nonpayment of rent may be heard by the court.

(6) The administrative office of the courts may also establish and produce any other notice forms and requirements as necessary to implement the eviction resolution pilot program.

(7) Any superior court, in collaboration with the dispute resolution center that is located within or serving the same county, participating in the eviction resolution pilot program must report annually to the administrative office of the courts beginning January 1, 2022, until January 1, 2023, on the following:

(a) The number of unlawful detainer actions for nonpayment of rent that were subject to program requirements;

(b) The number of referrals made to dispute resolution centers;

(c) The number of nonpayment of rent cases resolved by the program;

(d) How many instances the tenant had legal representation either at the conciliation stage or formal mediation stage;

(e) The number of certifications issued by dispute resolution centers and filed by landlords with the court; and

(f) Any other information that relates to the efficacy of the pilot program.

(8) By July 1, 2022, until July 1, 2023, the administrative office of the courts must provide a report to the legislature summarizing the report data shared by the superior courts and dispute resolution centers under subsection (7) of this section.

(9) This section expires July 1, 2023.

**RIGHT TO COUNSEL**

**NEW SECTION. Sec. 8.** A new section is added to chapter

59.18 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the court must appoint an attorney for an indigent tenant in an unlawful detainer proceeding under this chapter and chapters 59.12 and 59.20 RCW. The office of civil legal aid is responsible for implementation of this subsection as provided in section 9 of this act, and the state shall pay the costs of legal services provided by an attorney appointed pursuant to this subsection. In implementing this section, the office of civil legal aid shall assign priority to providing legal representation to indigent tenants in those counties in which the most evictions occur and to indigent tenants who are disproportionately at risk of eviction.

(2) For purposes of this section, "indigent" means any person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, aged, blind, or disabled assistance benefits, medical care services under RCW 74.09.035, pregnant women assistance benefits, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Receiving an annual income, after taxes, of 200 percent or less of the current federally established poverty level.

**NEW SECTION. Sec. 9.** A new section is added to chapter 2.53 RCW to read as follows:

(1) Moneys appropriated by the legislature for legal services provided by an attorney appointed pursuant to section 8 of this act must be administered by the office of civil legal aid established under RCW 2.53.020. The office of civil legal aid must enter into contracts with attorneys and agencies for the provision of legal services under section 8 of this act to remain within appropriated amounts.

(2) The legislature recognizes that the office of civil legal aid needs time to properly implement the right to attorney legal representation for indigent tenants under and consistent with section 8 of this act. Within 90 days after the effective date of this section, the office of civil legal aid must submit to the appropriate legislative committees a plan to fully implement the tenant representation program under and consistent with section 8 of this act within 12 months of the effective date of this section.

**Sec. 10.** RCW 59.18.057 and 2020 c 315 s 2 are each amended to read as follows:

(1) Every (~~fourteen-day~~) 14-day notice served pursuant to RCW 59.12.030(3) must be in substantially the following form:

"TO:

AND TO:

ADDRESS:

**FOURTEEN-DAY NOTICE TO PAY RENT OR VACATE THE PREMISES**

You are receiving this notice because the landlord alleges you are not in compliance with the terms of the lease agreement by failing to pay rent and/or utilities and/or recurring or periodic charges that are past due.

**(1) Monthly rent due for (list month(s)): \$ (dollar amount)**

**AND/OR**

**(2) Utilities due for (list month(s)): \$ (dollar amount)**

**AND/OR**

**(3) Other recurring or periodic charges identified in the lease for (list month(s)): \$ (dollar amount)**

**TOTAL AMOUNT DUE: \$ (dollar amount)**

**Note - payment must be made pursuant to the terms of the rental agreement or by nonelectronic means including, but not limited to, cashier's check, money order, or other certified**



**funds.**

You must pay the total amount due to your landlord within fourteen (14) days after service of this notice or you must vacate the premises. Any payment you make to the landlord must first be applied to the total amount due as shown on this notice. Any failure to comply with this notice within fourteen (14) days after service of this notice may result in a judicial proceeding that leads to your eviction from the premises.

**The Washington state Office of the Attorney General has this notice in multiple languages as well as information on available resources to help you pay your rent, including state and local rental assistance programs, on its website at [www.atg.wa.gov/landlord-tenant](http://www.atg.wa.gov/landlord-tenant). ~~((You will also find information there on how to find a lawyer or advocate at low or no cost and any available resources to help you pay your rent.~~**

**Alternatively, for no cost legal assistance for low income renters)) State law provides you the right to legal representation and the court may be able to appoint a lawyer to represent you without cost to you if you are a qualifying low-income renter. If you believe you are a qualifying low-income renter and would like an attorney appointed to represent you, please contact the Eviction Defense Screening Line at 855-657-8387 or apply online at <https://nwjustice.org/apply-online>. For additional resources, call 2-1-1 or the Northwest Justice Project CLEAR Hotline outside King County (888) 201-1014 weekdays between 9:15 a.m. – 12:15 p.m., or (888) 387-7111 for seniors (age 60 and over). You may find additional information to help you at <http://www.washingtonlawhelp.org>. Free or low-cost mediation services to assist in nonpayment of rent disputes before any judicial proceedings occur are also available at dispute resolution centers throughout the state. You can find your nearest dispute resolution center at <https://www.resolutionwa.org>.**

State law also provides you the right to receive interpreter services at court.

OWNER/LANDLORD: \_\_\_\_\_ DATE: \_\_\_\_\_

**WHERE TOTAL AMOUNT DUE IS TO BE PAID:**  
\_\_\_\_\_(owner/landlord name)\_\_\_\_\_  
\_\_\_\_\_(address)\_\_\_\_\_ "

(2) Upon expiration of the eviction resolution pilot program established under section 7 of this act:

(a) The landlord must also provide the notice required in this section to the dispute resolution center located within or serving the county in which the dwelling unit is located. It is a defense to an eviction under RCW 59.12.030 that a landlord did not provide additional notice under this subsection.

(b) Dispute resolution centers are encouraged to notify the housing justice project or northwest justice project located within or serving the county in which the dispute resolution center is located, as appropriate, once notice is received from the landlord under this subsection.

(3) The form required in this section does not abrogate any additional notice requirements to tenants as required by federal, state, or local law.

**Sec. 11.** RCW 59.18.365 and 2020 c 315 s 4 are each amended to read as follows:

(1) The summons must contain the names of the parties to the proceeding, the attorney or attorneys if any, the court in which the same is brought, the nature of the action, in concise terms, and the relief sought, and also the return day; and must notify the

defendant to appear and answer within the time designated or that the relief sought will be taken against him or her. The summons must contain a street address for service of the notice of appearance or answer and, if available, a facsimile number for the plaintiff or the plaintiff's attorney, if represented. The summons must be served and returned in the same manner as a summons in other actions is served and returned.

(2) A defendant may serve a copy of an answer or notice of appearance by any of the following methods:

(a) By delivering a copy of the answer or notice of appearance to the person who signed the summons at the street address listed on the summons;

(b) By mailing a copy of the answer or notice of appearance addressed to the person who signed the summons to the street address listed on the summons;

(c) By facsimile to the facsimile number listed on the summons. Service by facsimile is complete upon successful transmission to the facsimile number listed upon the summons;

(d) As otherwise authorized by the superior court civil rules.

(3) The summons for unlawful detainer actions for tenancies covered by this chapter shall be substantially in the following form:

IN THE SUPERIOR COURT OF THE  
STATE OF WASHINGTON  
IN AND  
FOR . . . . . COUNTY

Plaintiff/  NO.  
Landlord/   
Owner,   
vs.  EVICTION  
Defendant/  SUMMONS  
Tenant/  (Residential)  
Occupant.

THIS IS AN IMPORTANT LEGAL DOCUMENT TO EVICT YOU.

**YOUR WRITTEN**

RESPONSE MUST BE RECEIVED BY: 5:00 p.m., on

.....

TO: ..... (Defendant's Name)

..... (Defendant's Address)

**GET HELP: If you do not respond by the deadline above, you will lose your right to defend yourself or be represented by a lawyer if you cannot afford one in court and could be evicted. ((If you cannot afford a lawyer)) The court may be able to appoint a lawyer to represent you without cost to you if you are low-income and are unable to afford a lawyer. If you believe you are a qualifying low-income renter and would like an attorney appointed to represent you, please contact the Eviction Defense Screening Line at 855-657-8387 or apply online at <https://nwjustice.org/apply-online>. For additional resources, you may call 2-1-1 or the Northwest Justice Project CLEAR Hotline outside King County (888) 201-1014 weekdays between 9:15 a.m. – 12:15 p.m., or (888) 387-7111 for seniors (age 60 and over). ~~((They can refer you to free or low cost legal help.))~~ You may find additional information to help you at <http://www.washingtonlawhelp.org>. Free or low-cost mediation services to assist in nonpayment of rent disputes before any judicial proceedings occur are also available at dispute resolution centers throughout the state. You can find your nearest dispute resolution center at <https://www.resolutionwa.org>.**

**HOW TO RESPOND: Phone calls to your Landlord or your Landlord's lawyer are not a response.** You may respond with a "notice of appearance." This is a letter that includes the

following:

- (1) A statement that you are appearing in the court case
- (2) Names of the landlord(s) and the tenant(s) (as listed above)
- (3) Your name, your address where legal documents may be sent, your signature, phone number (if any), and case number (if the case is filed)

This case  is /  is not filed with the court. If this case is filed, you need to also file your response with the court by delivering a copy to the clerk of the court at: . . . . . (Clerk's Office/Address/Room number/Business hours of court clerk)

**WHERE TO RESPOND:** You must mail, fax, or hand deliver your response letter to your Landlord's lawyer, or if no lawyer is named in the complaint, to your Landlord. If you mail the response letter, you must do it 3 days before the deadline above. Request receipt of a proof of mailing from the post office. If you hand deliver or fax it, you must do it by the deadline above. The address is:

- . . . . . (Attorney/Landlord Name)
- . . . . . (Address)
- . . . . . (Fax - required if available)

**COURT DATE:** If you respond to this Summons, you will be notified of your hearing date in a document called an "Order to Show Cause." This is usually mailed to you. If you get notice of a hearing, **you must go to the hearing.** If you do not show up, your landlord can evict you. Your landlord might also charge you more money. If you move before the court date, you must tell your landlord or the landlord's attorney.

**LANDLORD ACCESS TO RENTAL ASSISTANCE PROGRAMS**

NEW SECTION. **Sec. 12.** A new section is added to chapter 43.185C RCW to read as follows:

(1) The department must authorize landlords an opportunity to apply to the following programs, if feasible, and establish application and eligibility requirements and any conditions on the receipt of funds as the department deems appropriate:

- (a) Rental assistance provided through the consolidated homeless grant program;
- (b) Rental assistance provided through the emergency solutions grant program; and
- (c) Any rental assistance program funded through receipt of any federal COVID-19 relief funds.

(2) Until March 31, 2022, the department must provide rental assistance directly to a landlord on behalf of an indigent tenant who is unable to:

- (a) Access an eviction resolution pilot program, as described in section 7 of this act, because such a program is either not available in the region in which the property is located or the regional program is not accepting new claims; or
- (b) Obtain legal representation as described in section 8 of this act.

(3) For the purposes of this section, "indigent" has the same meaning as section 8(2) of this act.

NEW SECTION. **Sec. 13.** The sum of \$7,500,000 for the fiscal biennium ending June 30, 2023, is appropriated from the coronavirus state fiscal recovery fund created in Engrossed Substitute Senate Bill No. 5092 (operating budget) to the department of commerce for the purposes of a landlord grant assistance program to provide grants to eligible landlords for rent that was not paid during the eviction moratorium pursuant to the governor's proclamation 20-19.6. The department shall have such rule-making authority as the department deems necessary to administer the program.

- (1) To be eligible for a grant under this section, a landlord must:
  - (a) Apply for a grant or have a property manager or property management company apply for a grant on behalf of a landlord;

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

(c) Be the owner of no more than 10 dwelling units from which they receive rental payments; and

(d) Provide proof of ownership of the property and a statement certified under penalty of perjury of the amount of rent due during the eviction moratorium that the landlord was not paid by the tenant, through funds acquired through an emergency rental assistance program provided by a governmental or nonprofit entity, through the state landlord mitigation program defined in RCW 43.31.605, or through any other means that would reasonably be considered payment of rent due.

(2) Eligible landlords may receive a grant of up to 80 percent of the total amount of rent in arrears.

(3) The department will disburse funds to eligible landlords within 60 days of submission of the application. Eligibility for a grant under this section does not constitute an entitlement for payment. If eligible applications for grants exceed the funds appropriated in this section, the department must create and maintain a waitlist in the order the applications are received pursuant to this section. The department shall not be civilly or criminally liable and may not have any penalty or cause of action of any nature arise against it regarding the provision or lack of provision of funds.

(4) The department shall provide a report to the appropriate committees of the legislature by September 30, 2023, which shall include the number of eligible applicants who received grants and the total funds provided to such applicants, the number of eligible applicants on the waitlist who did not receive grants and the total amount of grants unpaid due to lack of funds, and the number of ineligible applicants and the reasons for ineligibility.

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

- (a) Taking any legal action against the tenant for unpaid rent or damages attributable to the same tenancy; or
- (b) Pursuing collection, or authorizing another entity to pursue collection on the landlord's behalf, against the tenant for unpaid rent or damages attributable to the same tenancy.

(6) This section expires December 31, 2024.

**OTHER TENANT PROTECTIONS**

**Sec. 14.** RCW 59.12.040 and 2010 c 8 s 19007 are each amended to read as follows:

Any notice provided for in this chapter shall be served either

- (1) by delivering a copy personally to the person entitled thereto; or
- (2) if he or she be absent from the premises unlawfully held, by leaving there a copy, with some person of suitable age and discretion, and sending a copy through the mail addressed to the person entitled thereto at his or her place of residence; or
- (3) if the person to be notified be a tenant, or an unlawful holder of premises, and his or her place of residence is not known, or if a person of suitable age and discretion there cannot be found then by affixing a copy of the notice in a conspicuous place on the premises unlawfully held, and also delivering a copy to a person there residing, if such a person can be found, and also sending a copy through the mail addressed to the tenant, or unlawful occupant, at the place where the premises unlawfully held are situated. Service upon a subtenant may be made in the same manner: PROVIDED, That in cases where the tenant or unlawful occupant, shall be conducting a hotel, inn, lodging house, boarding house, or shall be renting rooms while still retaining control of the premises as a whole, that the guests, lodgers, boarders, or persons renting such rooms shall not be considered as subtenants within the meaning of this chapter, but all such persons may be served by affixing a copy of the notice to be served in two conspicuous places upon the premises unlawfully

held; and such persons shall not be necessary parties defendant in an action to recover possession of said premises. Service of any notice provided for in this chapter may be had upon a corporation by delivering a copy thereof to any officer, agent, or person having charge of the business of such corporation, at the premises unlawfully held, and in case no such officer, agent, or person can be found upon such premises, then service may be had by affixing a copy of such notice in a conspicuous place upon said premises and by sending a copy through the mail addressed to such corporation at the place where said premises are situated. Proof of any service under this section may be made by the affidavit of the person making the same in like manner and with like effect as the proof of service of summons in civil actions. When a copy of notice is sent through the mail, as provided in this section, service shall be deemed complete when such copy is deposited in the United States mail in the county in which the property is situated properly addressed with postage prepaid: PROVIDED, HOWEVER, That when service is made by mail one additional day shall be allowed before the commencement of an action based upon such notice. (~~RCW 59.18.375 may also apply to notice given under this chapter.~~)

**Sec. 15.** RCW 59.18.230 and 2020 c 315 s 6 and 2020 c 177 s 2 are each reenacted and amended to read as follows:

(1)(a) Any provision of a lease or other agreement, whether oral or written, whereby any section or subsection of this chapter is waived except as provided in RCW 59.18.360 and shall be deemed against public policy and shall be unenforceable. Such unenforceability shall not affect other provisions of the agreement which can be given effect without them.

(b) Any agreement, whether oral or written, between a landlord and tenant, or their representatives, and entered into pursuant to an unlawful detainer action under this chapter that requires the tenant to pay any amount in violation of RCW 59.18.283 or the statutory judgment amount limits under RCW 59.18.410 (1) or (2), or waives any rights of the tenant under RCW 59.18.410 or any other rights afforded under this chapter except as provided in RCW 59.18.360 is void and unenforceable. A landlord may not threaten a tenant with eviction for failure to pay nonpossessory charges limited under RCW 59.18.283.

(2) No rental agreement may provide that the tenant:

(a) Agrees to waive or to forgo rights or remedies under this chapter; or

(b) Authorizes any person to confess judgment on a claim arising out of the rental agreement; or

(c) Agrees to pay the landlord's attorneys' fees, except as authorized in this chapter; or

(d) Agrees to the exculpation or limitation of any liability of the landlord arising under law or to indemnify the landlord for that liability or the costs connected therewith; or

(e) And landlord have agreed to a particular arbitrator at the time the rental agreement is entered into; or

(f) Agrees to pay late fees for rent that is paid within five days following its due date. If rent is more than five days past due, the landlord may charge late fees commencing from the first day after the due date until paid. Nothing in this subsection prohibits a landlord from serving a notice to pay or vacate at any time after the rent becomes due.

(3) A provision prohibited by subsection (2) of this section included in a rental agreement is unenforceable. If a landlord deliberately uses a rental agreement containing provisions known by him or her to be prohibited, the tenant may recover actual damages sustained by him or her, statutory damages not to exceed (~~five hundred dollars~~) \$500, costs of suit, and reasonable attorneys' fees.

(4) The common law right of the landlord of distress for rent is hereby abolished for property covered by this chapter. Any provision in a rental agreement creating a lien upon the personal property of the tenant or authorizing a distress for rent is null and void and of no force and effect. Any landlord who takes or detains the personal property of a tenant without the specific written consent of the tenant to such incident of taking or detention, and who, after written demand by the tenant for the return of his or her personal property, refuses to return the same promptly shall be liable to the tenant for the value of the property retained, actual damages, and if the refusal is intentional, may also be liable for damages of up to (~~five hundred dollars~~) \$500 per day but not to exceed (~~five thousand dollars~~) \$5,000, for each day or part of a day that the tenant is deprived of his or her property. The prevailing party may recover his or her costs of suit and a reasonable attorneys' fee.

In any action, including actions pursuant to chapters 7.64 or 12.28 RCW, brought by a tenant or other person to recover possession of his or her personal property taken or detained by a landlord in violation of this section, the court, upon motion and after notice to the opposing parties, may waive or reduce any bond requirements where it appears to be to the satisfaction of the court that the moving party is proceeding in good faith and has, prima facie, a meritorious claim for immediate delivery or redelivery of said property.

**Sec. 16.** RCW 59.20.040 and 1999 c 359 s 3 are each amended to read as follows:

This chapter shall regulate and determine legal rights, remedies, and obligations arising from any rental agreement between a landlord and a tenant regarding a mobile home lot and including specified amenities within the mobile home park, mobile home park cooperative, or mobile home park subdivision, where the tenant has no ownership interest in the property or in the association which owns the property, whose uses are referred to as a part of the rent structure paid by the tenant. All such rental agreements shall be unenforceable to the extent of any conflict with any provision of this chapter. Chapter 59.12 RCW shall be applicable only in implementation of the provisions of this chapter and not as an alternative remedy to this chapter which shall be exclusive where applicable: PROVIDED, That the provision of RCW 59.12.090, 59.12.100, and 59.12.170 shall not apply to any rental agreement included under the provisions of this chapter. RCW 59.18.055 (~~and 59.18.370~~), section 8 of this act, 59.18.365, 59.18.370, and 59.18.380 through 59.18.410 shall be applicable to any action of forcible entry or detainer or unlawful detainer arising from a tenancy under the provisions of this chapter, except when a mobile home, manufactured home, or park model or a tenancy in a mobile home lot is abandoned. Rentals of mobile homes, manufactured homes, or park models themselves are governed by the residential landlord-tenant act, chapter 59.18 RCW.

**Sec. 17.** RCW 59.18.410 and 2020 c 315 s 5 are each amended to read as follows:

(1) If at trial the verdict of the jury or, if the case is tried without a jury, the finding of the court is in favor of the landlord and against the tenant, judgment shall be entered for the restitution of the premises; and if the proceeding is for unlawful detainer after neglect or failure to perform any condition or covenant of a lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of the lease, agreement, or tenancy. The jury, or the court, if the proceedings are tried without a jury, shall also assess the damages arising out of the tenancy occasioned to the landlord by any forcible entry, or by any forcible or unlawful detainer, alleged in

the complaint and proved at trial, and, if the alleged unlawful detainer is based on default in the payment of rent, find the amount of any rent due, and the judgment shall be rendered against the tenant liable for the forcible entry, forcible detainer, or unlawful detainer for the amount of damages thus assessed, for the rent, if any, found due, and late fees if such fees are due under the lease and do not exceed seventy-five dollars in total. The court may award statutory costs. The court may also award reasonable attorneys' fees as provided in RCW 59.18.290.

(2) When the tenant is liable for unlawful detainer after a default in the payment of rent, execution upon the judgment shall not occur until the expiration of five court days after the entry of the judgment. Before entry of a judgment or until five court days have expired after entry of the judgment, the tenant or any subtenant, or any mortgagee of the term, or other party interested in the continuance of the tenancy, may pay into court or to the landlord the amount of the rent due, any court costs incurred at the time of payment, late fees if such fees are due under the lease and do not exceed seventy-five dollars in total, and attorneys' fees if awarded, in which event any judgment entered shall be satisfied and the tenant restored to his or her tenancy. If the tenant seeks to restore his or her tenancy after entry of a judgment, the tenant may tender the amount stated within the judgment as long as that amount does not exceed the amount authorized under subsection (1) of this section. If a tenant seeks to restore his or her tenancy and pay the amount set forth in this subsection with funds acquired through an emergency rental assistance program provided by a governmental or nonprofit entity, the tenant shall provide a copy of the pledge of emergency rental assistance provided from the appropriate governmental or nonprofit entity and have an opportunity to exercise such rights under this subsection, which may include a stay of judgment and provision by the landlord of documentation necessary for processing the assistance. The landlord shall accept any pledge of emergency rental assistance funds provided to the tenant from a governmental or nonprofit entity before the expiration of any pay or vacate notice for nonpayment of rent for the full amount of the rent owing under the rental agreement. The landlord shall accept any written pledge of emergency rental assistance funds provided to the tenant from a governmental or nonprofit entity after the expiration of the pay or vacate notice if the pledge will contribute to the total payment of both the amount of rent due, including any current rent, and other amounts if required under this subsection. The landlord shall suspend any court action for seven court days after providing necessary payment information to the nonprofit or governmental entity to allow for payment of the emergency rental assistance funds. By accepting such pledge of emergency rental assistance, the landlord is not required to enter into any additional conditions not related to the provision of necessary payment information and documentation. If a judgment has been satisfied, the landlord shall file a satisfaction of judgment with the court. A tenant seeking to exercise rights under this subsection shall pay an additional fifty dollars for each time the tenant was reinstated after judgment pursuant to this subsection within the previous twelve months prior to payment. If payment of the amount specified in this subsection is not made within five court days after the entry of the judgment, the judgment may be enforced for its full amount and for the possession of the premises.

(3)(a) Following the entry of a judgment in favor of the landlord and against the tenant for the restitution of the premises and forfeiture of the tenancy due to nonpayment of rent, the court, at the time of the show cause hearing or trial, or upon subsequent motion of the tenant but before the execution of the writ of restitution, may stay the writ of restitution upon good cause and on such terms that the court deems fair and just for both parties.

In making this decision, the court shall consider evidence of the following factors:

(i) The tenant's willful or intentional default or intentional failure to pay rent;

(ii) Whether nonpayment of the rent was caused by exigent circumstances that were beyond the tenant's control and that are not likely to recur;

(iii) The tenant's ability to timely pay the judgment;

(iv) The tenant's payment history;

(v) Whether the tenant is otherwise in substantial compliance with the rental agreement;

(vi) Hardship on the tenant if evicted; and

(vii) Conduct related to other notices served within the last six months.

(b) The burden of proof for such relief under this subsection (3) shall be on the tenant. If the tenant seeks relief pursuant to this subsection (3) at the time of the show cause hearing, the court shall hear the matter at the time of the show cause hearing or as expeditiously as possible so as to avoid unnecessary delay or hardship on the parties.

(c) In any order issued pursuant to this subsection (3):

(i) The court shall not stay the writ of restitution more than ninety days from the date of order, but may order repayment of the judgment balance within such time. If the payment plan is to exceed thirty days, the total cumulative payments for each thirty-day period following the order shall be no less than one month of the tenant's share of the rent, and the total amount of the judgment and all additional rent that is due shall be paid within ninety days.

(ii) Within any payment plan ordered by the court, the court shall require the tenant to pay to the landlord or to the court one month's rent within five court days of issuance of the order. If the date of the order is on or before the fifteenth of the month, the tenant shall remain current with ongoing rental payments as they become due for the duration of the payment plan; if the date of the order is after the fifteenth of the month, the tenant shall have the option to apportion the following month's rental payment within the payment plan, but monthly rental payments thereafter shall be paid according to the rental agreement.

(iii) The sheriff may serve the writ of restitution upon the tenant before the expiration of the five court days of issuance of the order; however, the sheriff shall not execute the writ of restitution until after expiration of the five court days in order for payment to be made of one month's rent as required by (c)(ii) of this subsection. In the event payment is made as provided in (c)(ii) of this subsection for one month's rent, the court shall stay the writ of restitution ex parte without prior notice to the landlord upon the tenant filing and presenting a motion to stay with a declaration of proof of payment demonstrating full compliance with the required payment of one month's rent. Any order staying the writ of restitution under this subsection (3)(c)(iii) shall require the tenant to serve a copy of the order on the landlord by personal delivery, first-class mail, facsimile, or email if agreed to by the parties.

(A) If the tenant has satisfied (c)(ii) of this subsection by paying one month's rent within five court days, but defaults on a subsequent payment required by the court pursuant to this subsection (3)(c), the landlord may enforce the writ of restitution after serving a notice of default in accordance with RCW 59.12.040 informing the tenant that he or she has defaulted on rent due under the lease agreement or payment plan entered by the court. Upon service of the notice of default, the tenant shall have three calendar days from the date of service to vacate the premises before the sheriff may execute the writ of restitution.

(B) If the landlord serves the notice of default described under this subsection (3)(c)(iii), an additional day is not included in

calculating the time before the sheriff may execute the writ of restitution. The notice of default must be in substantially the following form:

NOTICE OF DEFAULT FOR RENT AND/OR PAYMENT PLAN ORDERED BY COURT

NAME(S)  
ADDRESS  
CITY, STATE, ZIP

THIS IS NOTICE THAT YOU ARE IN DEFAULT OF YOUR RENT AND/OR PAYMENT PLAN ORDERED BY THE COURT. YOUR LANDLORD HAS RECEIVED THE FOLLOWING PAYMENTS:

DATE  
AMOUNT  
DATE  
AMOUNT  
DATE  
AMOUNT

THE LANDLORD MAY SCHEDULE YOUR PHYSICAL EVICTION WITHIN THREE CALENDAR DAYS OF SERVICE OF THIS NOTICE. TO STOP A PHYSICAL EVICTION, YOU ARE REQUIRED TO PAY THE BALANCE OF YOUR RENT AND/OR PAYMENT PLAN IN THE AMOUNT OF \$ . . . .

PAYMENT MAY BE MADE TO THE COURT OR TO THE LANDLORD. IF YOU FAIL TO PAY THE BALANCE WITHIN THREE CALENDAR DAYS, THE LANDLORD MAY PROCEED WITH A PHYSICAL EVICTION FOR POSSESSION OF THE UNIT THAT YOU ARE RENTING.

DATE  
SIGNATURE  
LANDLORD/AGENT  
NAME  
ADDRESS  
PHONE

(iv) If a tenant seeks to satisfy a condition of this subsection (3)(c) by relying on an emergency rental assistance program provided by a government or nonprofit entity and provides an offer of proof, the court shall stay the writ of restitution as necessary to afford the tenant an equal opportunity to comply.

(v) The court shall extend the writ of restitution as necessary to enforce the order issued pursuant to this subsection (3)(c) in the event of default.

(d) A tenant who has been served with three or more notices to pay or vacate for failure to pay rent as set forth in RCW 59.12.040 within twelve months prior to the notice to pay or vacate upon which the proceeding is based may not seek relief under this subsection (3).

(e)(i) In any application seeking relief pursuant to this subsection (3) by either the tenant or landlord, the court shall issue a finding as to whether the tenant is low-income, limited resourced, or experiencing hardship to determine if the parties would be eligible for disbursement through the landlord mitigation program account established within RCW 43.31.605(1)(c). In making this finding, the court may include an inquiry regarding the tenant's income relative to area median income, household composition, any extenuating circumstances, or other factors, and may rely on written declarations or oral testimony by the parties at the hearing.

(ii) After a finding that the tenant is low-income, limited resourced, or experiencing hardship, the court may issue an order: (A) Finding that the landlord is eligible to receive on behalf of the tenant and may apply for reimbursement from the landlord

mitigation program; and (B) directing the clerk to remit, without further order of the court, any future payments made by the tenant in order to reimburse the department of commerce pursuant to RCW 43.31.605(1)(c)(iii). In accordance with RCW 43.31.605(1)(c), such an order must be accompanied by a copy of the order staying the writ of restitution. Nothing in this subsection (3)(e) shall be deemed to obligate the department of commerce to provide assistance in claim reimbursement through the landlord mitigation program if there are not sufficient funds.

(iii) If the department of commerce fails to disburse payment to the landlord for the judgment pursuant to this subsection (3)(e) within thirty days from submission of the application, the landlord may renew an application for a writ of restitution pursuant to RCW 59.18.370 and for other rent owed by the tenant since the time of entry of the prior judgment. In such event, the tenant may exercise rights afforded under this section.

(iv) Upon payment by the department of commerce to the landlord for the remaining or total amount of the judgment, as applicable, the judgment is satisfied and the landlord shall file a satisfaction of judgment with the court.

(v) Nothing in this subsection (3)(e) prohibits the landlord from otherwise applying for reimbursement for an unpaid judgment pursuant to RCW 43.31.605(1)(c) after the tenant defaults on a payment plan ordered pursuant to (c) of this subsection.

(vi) For the period extending one year beyond the expiration of the eviction moratorium, if a tenant demonstrates an ability to pay in order to reinstate the tenancy by means of disbursement through the landlord mitigation program account established within RCW 43.31.605(1)(c):

(A) Any restrictions imposed under (d) of this subsection do not apply in determining if a tenant is eligible for reinstatement under this subsection (3); and

(B) Reimbursement on behalf of the tenant to the landlord under RCW 43.31.605(1)(c) may include up to three months of prospective rent to stabilize the tenancy as determined by the court.

(4) If a tenant seeks to stay a writ of restitution issued pursuant to this chapter, the court may issue an ex parte stay of the writ of restitution provided the tenant or tenant's attorney submits a declaration indicating good faith efforts were made to notify the other party or, if no efforts were made, why notice could not be provided prior to the application for an ex parte stay, and describing the immediate or irreparable harm that may result if an immediate stay is not granted. The court shall require service of the order and motion to stay the writ of restitution by personal delivery, mail, facsimile, or other means most likely to afford all parties notice of the court date.

(5) In all other cases the judgment may be enforced immediately. If a writ of restitution shall have been executed prior to judgment no further writ or execution for the premises shall be required.

(6) This section also applies if the writ of restitution is issued pursuant to a final judgment entered after a show cause hearing conducted in accordance with RCW 59.18.380.

NEW SECTION. Sec. 18. This act does not apply to assisted living facilities licensed under chapter 18.20 RCW, to nursing homes licensed under chapter 18.51 RCW, to adult family homes licensed under chapter 70.128 RCW, or to continuing care retirement communities registered under chapter 18.390 RCW.

NEW SECTION. Sec. 19. RCW 59.18.375 (Forcible entry or detainer or unlawful detainer actions—Payment of rent into court registry—Writ of restitution—Notice) and 2008 c 75 s 2, 2006 c 51 s 2, & 1983 c 264 s 13 are each repealed.

NEW SECTION. Sec. 20. Sections 2 through 4 of this act

supersede any other provisions within chapter 59.18 or 59.12 RCW, or chapter 59.20 RCW as applicable, that conflict with sections 2 through 4 of this act.

**NEW SECTION. Sec. 21.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately."

Correct the title.

and the same are herewith transmitted.

BERNARD DEAN, Chief Clerk

#### MOTION

Senator Kuderer moved that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5160 and ask the House to recede therefrom.

Senator Kuderer spoke in favor of the motion.

Senator Fortunato spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Kuderer that the Senate refuse to concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5160 and ask the House to recede therefrom.

The motion by Senator Kuderer did not carry and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 5160 by voice vote.

#### PARLIAMENTARY INQUIRY

Senator Saldaña: "How, when we are not present, able to call for a roll call? When we are in the middle of a vote, or right before we go into vote?"

President Heck: "There is a request roll call button. We are..."

Senator Saldaña: "I did not have access to that button. I am sorry. I just have request to speak and point of inquiry now, but when we were voting there were no other buttons available to me. It's okay, but I just wanted to know."

#### REPLY BY THE PRESIDENT

President Heck: "Senator Saldaña, thank you so much for your inquiry. Here is the clarification as I now understand it. People

who are remote do not have an opportunity to request a roll call before the gavel comes down. You are correct. The members on the floor, notably the Floor Leaders, the Majority and Minority Leader, can request that and indeed we have done that this session before the vote was announced."

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 5160, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 5160, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 27; Nays, 22; Absent, 0; Excused, 0.

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

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

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 5160, as amended by the House, 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 7:10 p.m., on motion of Senator Lias, the Senate adjourned until 11:00 o'clock a.m. Tuesday, April 20, 2021.

DENNY HECK, President of the Senate

BRAD HENDRICKSON, Secretary of the Senate

1022	Other Action.....	13
Messages .....	58	
1120-S.E	5121-S.E	
Other Action.....	Final Passage as amended by House.....	66
Second Reading .....	Messages .....	64
Third Reading Final Passage .....	Other Action.....	66
1310-S2.E	5146	
Messages .....	President Signed.....	2
1316	5158.E	
Other Action.....	President Signed.....	2
Second Reading .....	5160-S2.E	
Third Reading Final Passage .....	Final Passage as amended by House.....	142
1348-S	Messages .....	132
Messages .....	Other Action.....	78
1416-S	5163-S2.E	
Messages .....	Final Passage as amended by House.....	79
1425-S	Messages .....	70
Messages .....	Other Action.....	78
1477-S2.E	5183-S2	
Other Action.....	Final Passage as amended by House.....	62
Second Reading ..	Messages .....	60
Third Reading Final Passage .....	Other Action.....	61
1777-S2.E	5190-S.E	
Second Reading .....	Final Passage as amended by House.....	19
5003-S	Messages .....	13
President Signed.....	Other Action.....	18
5011-S	5193-S.E	
President Signed.....	Final Passage as amended by House.....	20
5022-S2.E	Messages .....	19
Final Passage as amended by House.....	Other Action.....	20
Messages .....	5194-S2.E	
Other Action.....	Final Passage as amended by House.....	26
5025-S	Messages .....	20
Final Passage as amended by House.....	Other Action.....	25
Messages .....	5195-S2	
Other Action.....	Final Passage as amended by House.....	70
5027	Messages .....	66
President Signed.....	Other Action.....	70
5030-S	5214-S2	
President Signed.....	Final Passage as amended by House.....	60
5032	Messages .....	59
President Signed.....	Other Action.....	60
5034-S	5227-S2.E	
President Signed.....	Final Passage as amended by House.....	28
5118-S.E	Messages .....	26
Final Passage as amended by House.....	Other Action.....	28
Messages .....	5236-S	
	Final Passage as amended by House.....	31
	Messages .....	28

Other Action.....	31	Other Action.....	38
5237-S2.E		5408-S.E	
Messages .....	41	Final Passage as amended by House.....	41
5258-S		Messages .....	38
President Signed.....	2	Other Action.....	40
5259-S2.E		5452-S.E	
President Signed.....	2	President Signed.....	2
5287-S2.E		5484	
President Signed.....	2	Introduction & 1st Reading.....	2
5313-S2		5485	
Final Passage as amended by House.....	33	Introduction & 1st Reading.....	2
Messages .....	31	CHAPLAIN OF THE DAY	
Other Action.....	33	Everett, Mr. George, Pastor, Coastlands	
5345		International Church, Kent.....	1
President Signed.....	2	FLAG BEARERS	
5368-S2		Washington State Patrol Honor Guard .....	1
Final Passage as amended by House.....	64	GUESTS	
Messages .....	62	Tudor, Mr. Colin, Pledge of Allegiance .....	1
Other Action.....	64	MESSAGE FROM GOVERNOR .....	1
5377-S2.E		PRESIDENT OF THE SENATE	
Final Passage as amended by House.....	36	Reply by the President .....	62, 142
Messages .....	33	WASHINGTON STATE SENATE	
Other Action.....	36	Parliamentary Inquiry, Senator Darneille ...	62
5399-S2.E		Parliamentary Inquiry, Senator Saldaña ...	142
Final Passage as amended by House.....	38	Point of Inquiry, Senator Cleveland.....	36
Messages .....	36		